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Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: November 25, at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: 202–523–5240.
DIRECTIONS: North on 11th Street from Metro Center to southwest corner of 11th and L Streets

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OVERSIGHT BOARD

12 CFR Part 1510

Resolution Funding Corporation Operations; Principal Fund Reserve Account; Request for Funds for Interest Payments

AGENCY: Oversight Board.

ACTION: Final rule.

SUMMARY: These amendments are issued to provide that Federal Home Loan Banks for whom stock in the Resolution Funding Corporation has been purchased by other Federal Home Loan Banks shall repurchase such stock in accordance with applicable statutory provisions and to revise procedures for the funding of interest payments on obligations of the Corporation. Existing regulations restrict the Oversight Board's statutory authority to approve procedures that would facilitate the repurchase of stock of the Resolution Funding Corporation and include interest funding procedures that are impractical. The amendments would restore flexibility allowed by statute and facilitate the repurchase of stock of the Resolution Funding Corporation and the funding of interest payments on its obligations.

EFFECTIVE DATE: November 12, 1991.

FOR FURTHER INFORMATION CONTACT: Lawrence Hayes, telephone (202) 786–9681.

SUPPLEMENTARY INFORMATION:

Background

The Resolution Funding Corporation ("Funding Corporation") is a mixed-ownership government corporation, subject to the direction of the Oversight Board, established under section 21B of the Federal Home Loan Bank Act ("Act"), 12 U.S.C. 1441b. Its sole purpose is to provide financing for the Resolution Trust Corporation ("RTC").

The Funding Corporation is authorized to issue obligations in an aggregate amount not to exceed $30 billion, the net proceeds of which are used to purchase nonvoting capital certificates of the RTC. Upon completion of its last bond sale, in January, 1991, the Funding Corporation had issued approximately all of the $30 billion in obligations authorized by statute; and net proceeds of approximately $30.087 billion, adjusted for premiums, discounts, and issuance costs, had been transferred to the RTC.

The Funding Corporation maintains a Principal Fund for the purpose of repaying the Funding Corporation's obligations at maturity. That Principal Fund consists of noninterest bearing obligations of the United States having equal maturity value with the principal amount of the Funding Corporation's obligations. Such Treasury "zero-coupon bonds" are maintained in a custodial account at the Federal Reserve Bank of New York.

The largest part of the Principal Fund has been established through the purchase of nonvoting stock of the Funding Corporation by the Federal Home Loan Banks in accordance with statutory formulas. Under section 21B of the Act, the Banks as a group are required by the Oversight Board from time to time to provide certain aggregate amounts of funds for the purchase of such stock, and individual Banks are allocated shares of such amounts according to the statutory formulas. An individual Bank's allocated share, however, may exceed a statutory maximum amount limitation that is applicable to it, based upon its reserves and undivided profits. In such case, the Bank is a "deficient Bank" as defined in section 21B(e)(6) of the Act, and those Banks whose shares do not exceed their maximum amount limitations, defined as "remaining" Banks, are required to purchase Funding Corporation stock on behalf of such a deficient Bank or Banks. Section 21B(e)(6) further provides for the reimbursement of remaining Banks by deficient Banks and for the establishment of reserves for this purpose.

The Funding Corporation pays interest on its obligations from several sources. To the extent that prior sources are insufficient, the Federal Home Loan Banks must provide an aggregate annual amount of not more than $300 million, less any amounts used in the same year for the principal payments of the Financing Corporation (established under 12 U.S.C. 1441) and for the Principal Fund. Section 21B(f)(2)(C) of the Act sets forth formulas for the allocation of such aggregate annual payments among the Banks.

The Oversight Board has issued regulations, in 12 CFR part 1510, that, among other things, are intended to clarify and implement the statutory provisions concerning the reimbursement of remaining Banks by deficient Banks and the assessment of the Banks for the payment of interest on obligations of the Funding Corporation.

Reimbursement Reserve Procedures

The Funding Corporation has held six auctions of its obligations, the first in October, 1989, and the last in January, 1991. In the course of the issuances resulting from these auctions, some of the Federal Home Loan Banks assessed for amounts to purchase Treasury zero-coupon bonds for the Principal Fund have proved to be "deficient" under section 21B of the Act, and stock has been purchased on their behalf by Banks that were "remaining" Banks as of the time of assessment. The Directorate of the Funding Corporation has developed procedures to implement the statutory and regulatory requirements for the assessment of the Banks and the reimbursement of remaining Banks by deficient Banks; but the development of these procedures and the practical need to provide for appropriate handling of reimbursements and reserves has shown that some of the existing regulations unnecessarily restrict the flexibility permitted by statute in dealing with these matters.

Section 21B(e)(6) of the Act provides for the establishment of reserves by deficient Banks for the purpose of making reimbursements. Such reserves are to be constituted from the net earnings of a deficient Bank and from any reimbursements received from other deficient Banks; the amount placed in a reimbursement reserve by a deficient Bank in any year shall not exceed an amount equal to 20% of the Bank's net earnings; and the dollar amounts of reimbursements are to be determined and distributed annually.

Within the statutory framework, the Directorate of the Funding Corporation has attempted to work out

reimbursement procedures, subject to the approval of the Oversight Board, that would allow the Banks appropriate flexibility to manage their liabilities. Such procedures would distinguish between a deficient Bank for which more stock had been purchased on its behalf than it had purchased for others and an "artificially" deficient Bank, which, as a remaining Bank in some previous assessments, had purchased more stock on behalf of other Banks than had subsequently been purchased for it. Under the procedures an artificially deficient Bank would be permitted to: (1) Reimburse the remaining Banks that had purchased stock on its behalf in excess of the 20% of earnings benchmark if the artificially deficient bank had received reimbursements from other deficient Banks in amounts in excess of that benchmark; and (2) reserve less than 20% of its annual net earnings. A deficient Bank for which more stock had been purchased than it had purchased on behalf of others would reserve an amount equal to 20% of annual net earnings from reimbursements received and from net earnings. Interim quarterly reimbursement payments could be made, at the option of the deficient Bank, subject to annual adjustment and settlement in accordance with statutory requirements. The procedures give the Banks flexibility to manage their liabilities and dividend policies in the best interests of their stockholders.

The described procedures are consistent with section 21B(e)(6) of the Act and with the amended regulations. The statute establishes "an amount equal to 20% of the net earnings" as a maximum annual limitation with respect to a reimbursement reserve, and § 1510.10(c), as amended, makes it clear that the requirement is a maximum limitation upon what the Oversight Board may require. Section 21B(e)(6)(D)(1) of the Act specifically provides that "reimbursements received" as well as net earnings shall be utilized to reserve the amount necessary to make the reimbursements required by the Act, and § 1510.10(c), as amended, makes it clear that reimbursements received by a deficient Bank shall be placed in the reimbursement reserve established by that Bank.

Although the Oversight Board may not require a deficient Bank to reserve annually for reimbursements more than an amount equal to 20% of its net earnings, the statute does not prohibit voluntary repayment by a deficient Bank that utilizes all reimbursements received even if in excess of the 20% of net earnings benchmark. In this connection, all of the Federal Home Loan Banks have submitted a Memorandum of Understanding to the Oversight Board, in support of the procedures recommended by the Directorate, which evidences their voluntary assent to the use of reimbursements received by deficient and artificially deficient Banks for the purpose of reimbursing remaining Banks, even in cases in which such reimbursements exceed the benchmark.

The statutory provisions for annual determination and distribution of reimbursement amounts are not inconsistent with interim quarterly payments, subject to annual adjustment and distribution, as provided in proposed procedures. Section 1510.10(e) in its present form, however, does not permit such quarterly payments.

Interest Procedures

12 CFR 1510.12 in its present form includes certain rigid timing deadlines that have proved to be impracticable. For example, § 1510.12(a) requires the Directorate to determine each Bank's pro rata share of the funding needed for interest payments on obligations of the Funding Corporation at least thirty days in advance of the date of the payments. Interest payments are made 15 days following each quarter, however, and the information necessary to determine the pro rata shares is not available until following the close of the quarter. It is clear that the regulation in its present form cannot be complied with and needs modification.

Amendments

The final rule would make it clear that the reserve account required under section 21B(e)(6) of the Act includes reimbursements received from other deficient Banks as well as a percentage of net earnings, that section 21B(e)(6)(D)(ii) establishes a maximum amount that may be required for such reserve, that the Banks may voluntarily reserve additional amounts for reimbursement from reimbursements received or from other sources, and that reimbursement payments may be made on an interim quarterly basis, subject to annual adjustment and final distribution. Provisions concerning the accrual and payment of interest on stock purchased for a deficient Bank would also be clarified.

The final rule would remove existing impractical procedural deadlines.

Administrative Procedure Act

The Oversight Board, in issuing the regulations codified in 12 CFR part 1510, 54 FR 41950, October 13, 1989, determined that such regulations are rules of agency organization, procedure, or practice within the meaning of 5 U.S.C. 553. Accordingly, notice of proposed rulemaking is not required for the amendment of such regulations. The amendments remove regulatory provisions that impair the Oversight Board's flexibility to carry out its function of establishing procedures to implement the Act.

The amendments are effective upon publication in the **Federal Register**. They are not subject to the requirement of 5 U.S.C. 553(d) that effective date follow publication by not less than 30 days. The amendments are not substantive, but procedural; and they remove existing regulatory restrictions that are either inconsistent with the governing statute or procedurally impracticable. Further, the Oversight Board finds good cause for making the amendments effective upon publication for the reason that such amendments will permit the adoption of procedures that will enable deficient Banks to begin the repayment of remaining Banks promptly in accordance with such procedures.

Executive Order 12291

The amendments do not constitute a regulation or rule for the purposes of Executive Order 12291.

Regulatory Flexibility Act

The Oversight Board is not required by section 553 of title 5, United States Code, or by any other law to publish a general notice of proposed rulemaking for these amendments, and the Oversight Board is not required to prepare a regulatory flexibility analysis pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

List of Subjects in 12 CFR Part 1510

Federal home loan banks, Federal Reserve System, Financing Corporation, Resolution Funding Corporation, Resolution Trust Corporation, Securities.

For the reasons set forth in the preamble, title 12, chapter XV, subchapter B, of the Code of Federal Regulations is amended as follows:

PART 1510—RESOLUTION FUNDING CORPORATION OPERATIONS

1. The authority citation for part 1510 is revised to read as follows:

Authority: 12 U.S.C. 1441b.

2. Section 1510.10 is amended by revising paragraphs (b), (c), (d), and (e) to read as follows:

§ 1510.10 Funding Corporation Principal Fund Reserve Account.

* * * * *

(b) The balance in the reserve account, which shall not exceed the amount of the total deficiency of the deficient bank, shall be available for the sole purpose of purchasing capital stock from the remaining banks that was purchased on behalf of the deficient bank.

(c) Each quarter, each deficient bank shall, prior to any payment of dividends, set aside in the reserve account from net earnings and any reimbursements received from other deficient banks an amount that shall be used to make the purchases of stock required under section 21B(e)(6)(C) of the Act. Pursuant to section 21A(e)(6)(D)(ii) of the Act, the Board shall not require that such amount exceed an amount equal to twenty percent (20%) of the net earnings of the deficient bank. Such limitation, however, shall not prohibit a deficient bank from reserving additional amounts, from reimbursements received from other deficient banks or from other sources, for the purpose of purchasing stock purchased on its behalf by remaining banks.

(d) Interest shall begin to accrue two (2) years after the investments under section 21B(e)(6)(A) of the Act are made on behalf of a deficient bank. Interest shall accrue on the deficient amount at a rate equal to the annual average cost of funds of all banks in the most recent year. Interest payments shall be made annually or quarterly in the manner described in paragraph (e) of this section. Such interest payments are not subject to the limitations on reserve accounts set forth in paragraph (c) of this section.

(e) Annually, not later than each January 31, all amounts set aside in the reserve account shall be remitted to the remaining banks in the amounts determined by the Directorate, in accordance with a method approved by the Board and in accordance with section 21B of the Act, and shall be remitted in the order that each investment was made on behalf of a deficient bank. Notwithstanding the first sentence of this paragraph (e), however, amounts set aside in the reserve account may be remitted quarterly, not later than the close of the month following each quarter, provided that the total amounts remitted with respect to any year shall be equal to what would have been remitted if a single annual payment were made as set forth in the first sentence of this paragraph (e).

* * * * *

3. Section 1510.12 is amended by revising paragraph (a) to read as follows:

§ 1510.12 Request for funds for interest payments.

(a) Prior to the date that funds are needed by the Funding Corporation for interest payments pursuant to section 21B(f)(2) of the Act, the Directorate shall determine each bank's pro rata share in accordance with the provisions of section 21B(f)(2) of the Act and a methodology approved by the Board. The Directorate shall notify each bank in writing at least three business days in advance of such date of the amount and due date of payment of its pro rata share.

* * * * *

Peter H. Monroe,

President.

[FR Doc. 91-27104 Filed 11-8-91; 8:45 am]

BILLING CODE 2222-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-NM-199-AD; Amendment 39-8078; AD 91-23-09]

Airworthiness Directives; Boeing Model 747-400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747-400 series airplanes, which requires inspection of the main battery and Auxiliary Power Unit (APU) battery power feeder cable terminals for proper torque, and re-torquing to specific limits, if necessary. This amendment is prompted by a report of loss of main battery power due to loose battery power feeder cable terminal fasteners. This condition, if not corrected, could result in fire due to overheated terminals, and/or the loss of electrical power to flight critical systems in the event of a failure of the airplane's primary electrical power system.

DATES: Effective November 27, 1991.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 27, 1991.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Charles D. Huber, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM-130S; telephone (206) 227-2791. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: An incident has been reported in which airline personnel were unable to obtain standby power during airplane power-up procedures on a Boeing Model 747-400 airplane. Investigation into this problem revealed that two power feeder wire terminals on the main battery bus bar in the P180-1 panel were loose. There are currently no requirements to terminate and torque the power feeder cable terminal lugs at the main battery or APU battery bus bars. Loose terminal lugs at these locations could lead to fire due to overheated terminals, or could result in the loss of electrical power to flight critical systems in the event of a failure of the airplane's primary electrical power system.

Since this condition is likely to exist on other airplanes of the same type design, this AD requires a one-time inspection of the main battery and APU battery power feeder cable terminal fasteners for proper torque, and re-torquing of the terminal fasteners to specific limits, if necessary.

This AD references Boeing Commercial Airplane Group Process Specification BAC 5159, Revision F, dated March 1, 1991, as the appropriate service information containing the procedures for inspection of the subject terminal lugs to determine proper torque.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is

determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

91-23-09. Boeing: Amendment 39-8078. Docket No. 91-NM-199-AD.

Applicability: Model 747-400 series airplanes; line numbers 813 through 845, inclusive; certificated in any category.

Compliance: Required within 20 days after the effective date of this AD, unless previously accomplished.

To prevent fire due to overheated terminals and/or the loss of power to the standby electrical power system, accomplish the following:

(a) Inspect the nuts on terminal strips TD469 and TD470, located in the P180-1 panel, for proper torque of 65 to 75 inch-pounds, in accordance with Boeing Commercial Airplane Group Process Specification BAC 5159, Revision F, dated March 1, 1991. If any nut is found not to have proper torque, prior to further flight, re-torque the nut to 65 to 75 inch-pounds, in accordance with the Boeing Process Specification.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(d) The inspection and re-torquing requirements shall be done in accordance with Boeing Commercial Airplane Group Process Specification BAC 5159, Revision F, dated March 1, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

This amendment (39-8078, AD 91-23-09) becomes effective November 27, 1991.

Issued in Renton, Washington, on October 22, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-27088 Filed 11-8-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-115-AD; Amendment 39-8074; AD 91-23-05]

Airworthiness Directives; Fokker Model F-28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F-28 Mark 0100 series airplanes, which requires replacement of all aileron, elevator, and rudder servomotors and servomounts. This amendment is prompted by extensive testing which has demonstrated that water ingress into the primary flight control servomounts and servomotors, and subsequent freezing, can lead to a servo jam. This condition, if not corrected, could result in reduced controllability of the airplane.

DATES: Effective December 17, 1991.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 17, 1991.

ADDRESSES: The applicable service information may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM-113; telephone (206) 227-2145. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain Fokker Model F-28 Mark 0100 series airplanes, which requires replacement of all aileron, elevator, and rudder servomotors and servomounts, was published in the **Federal Register** on June 24, 1991 (56 FR 28730).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supported the rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 20 airplanes of U.S. registry will be affected by this AD, that it will take approximately 35 manhours per airplane to accomplish the required actions, and that the average labor cost will be $55 per manhour. Required parts will be provided by the manufacturer at no cost to the operator. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $38,500.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

91-23-05, Fokker: Amendment 39-8074. Docket No. 91-NM-115-AD.

Applicability: Model F-28 Mark 0100 series airplanes; Serial Numbers 11244 through 11306, 11308, 11310, 11312, 11313, 11314, 11316, and 11318; certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent reduced controllability of the airplane, accomplish the following:

(a) Within 6 months after the effective date of this AD:

(1) Replace all aileron, elevator, and rudder servomotors, P/N 622-7925-302, with modified servomotors, P/N 622-7925-303, in accordance with Fokker Service Bulletin F100-22-015, dated November 16, 1990; and

(2) Replace all aileron and rudder servomounts, P/N 622-7926-302; and elevator servomounts, P/N 622-8069-302; with modified servomounts, P/N 622-7926-303 and 622-8069-303, respectively, in accordance with Fokker Service Bulletin F100-22-018, Revision 1, dated January 24, 1991.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(d) The replacement requirements shall be done in accordance with Fokker Service Bulletin F100-22-015, dated November 16, 1990, and Fokker Service Bulletin F100-22-018, Revision 1, dated January 24, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

This amendment (39-8074, AD 91-23-05) becomes effective December 17, 1991.

Issued in Renton, Washington, on October 16, 1991.

Darrell M. Pederson,

Transport Airplane Directorate, Acting Manager, Aircraft Certification Service.

[FR Doc. 91-27089 Filed 11-8-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-56-AD; Amendment 39-8075; AD 91-23-06]

Airworthiness Directives; Fokker Model F-28 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F-28 series airplanes, which requires a one-time high frequency eddy current inspection to detect cracks in the horizontal stabilizer attach fittings, and repair or replacement with a serviceable part, if necessary. This proposal is prompted by a report of a crack in the right-hand upper lug of the horizontal stabilizer attach fitting. This condition, if not corrected, could result in uncommanded movement of the horizontal stabilizer and subsequent reduced controllability of the airplane.

DATES: Effective December 17, 1991.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 17, 1991.

ADDRESSES: The applicable service information may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM-113; telephone (206) 227-2145. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain Fokker Model F-28 series airplanes, which requires a one-time high frequency eddy current inspection to detect cracks in the horizontal stabilizer attach fittings, and repair or replacement with a serviceable part, if necessary, was published in the Federal Register on April 23, 1991 (56 FR 18550).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

It is estimated that 48 airplanes of U.S. registry would be affected by this AD, that it would take approximately 35 manhours per airplane to accomplish the required actions, and that the average labor cost would be $55 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $92,400.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact.

positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

91-23-06. Fokker: Amendment 39-8075. Docket No. 91-NM-58-AD.

Applicability: Model F-28 series airplanes, as listed in Fokker Service Bulletin F28/55-28, dated December 21, 1990, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent uncommanded movement of the horizontal stabilizer and subsequent reduced controllability of the airplane, accomplish the following:

A. Within 90 days after the effective date of this AD, perform a high-frequency eddy current inspection to detect cracks in the horizontal stabilizer attach fittings, in accordance with Parts 1 and 2 of Fokker Service Bulletin F28/55-28, dated December 21, 1990. If cracks are found, prior to further flight, repair or replace affected attach fitting with a serviceable part, in accordance with Part 3 of the service bulletin.

B. An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

D. The inspection, repair, and replacement requirements shall be done in accordance with Fokker Service Bulletin F28/55-28, dated December 21, 1990. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51.

Copies may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

This amendment (39-8075, AD 91-23-06) becomes effective December 17, 1991.

Issued in Renton, Washington, on October 16, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-27090 Filed 11-8-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 90-AAL-1]

Alteration and Establishment of VOR Federal Airways; AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters and establishes several Federal airways and colored airways in the State of Alaska. These actions are the result of an ever increasing demand for navigable routes within the western portion of Alaska. The National Airspace System (NAS) is the primary transportation link with the western portion of Alaska. The increasing growth in air taxi and commuter operations, along with projected air traffic increases for this region, mandates these actions. This amendment will improve traffic flow in this area and reduce controller workload.

EFFECTIVE DATE: 0901 u.t.c., January 9, 1992.

FOR FURTHER INFORMATION CONTACT: Alton D. Scott, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9252.

SUPPLEMENTARY INFORMATION:

History

On June 13, 1990, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the descriptions of V-350, V-510, and R-50; and to establish V-385, V-459, V-496, G-15, and B-3 (55 FR 23948). These airways are in the State of Alaska. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Sections 71.103, 71.107, 71.109, and 71.125 of part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6G dated September 4, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations alters the descriptions of V-350, V-510, and R-50; and establishes V-385, V-459, V-496, G-15, and B-3. These airways are necessary to provide a transportation link between the isolated western portion of Alaska and the rest of the state. The commissioning and upgrading of several new navigational aids brought about growth in air taxi and commuter operations in this region. As this trend is projected to continue, the demand for navigable airspace will likely mandate similar actions in the future. This amendment will improve existing routes within this region, provide additional routes to accommodate the increasing air traffic, and reduce controller workload.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. App. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.103 [Amended]

2. Section 71.103 is amended as follows:

G-15 [New]

From St. Marys, AK, NDB, via Anvik, AK, NDB; to Takotna River, AK, NDB.

§ 71.107 [Amended]

3. Section 71.107 is amended as follows:

R-50 [Amended]

By removing the words "From Bishop, AK, NDB via" and substituting the words "From Nanwak, AK, NDB, via Oscarville, AK, NDB; Anvik, AK, NDB; Bishop, AK, NDB;"

§ 71.109 [Amended]

4. Section 71.109 is amended as follows:

B-3 [New]

From Aniak, AK, NDB, via Anvik, AK, NDB; North River, AK, NDB; Norton Bay, AK, NDB; Hotham, AK, NDB; to Noatak, AK, NDB.

§ 71.125 [Amended]

5. Section 71.125 is amended as follows:

V-350 [Amended]

By removing the words "to Bethel, AK." and substituting the words "Bethel, AK; Emmonak, AK; to Nome, AK."

V-385 [New]

From Hooper Bay, AK, via Emmonak, AK; to Unalakleet, AK.

V-459 [New]

From Emmonak, AK; to St. Marys, AK, NDB.

V-496 [New]

From Hooper Bay, AK; to St. Marys, AK, NDB.

V-510 [Amended]

By removing the words "From McGrath, AK," and substituting the words "From Emmonak, AK, via Anvik, AK, NDB; McGrath, AK,"

Issued in Washington, DC, on November 5, 1991.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 91-27082 Filed 11-8-91; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 91-93]

Extension of Eagle Pass, Texas Port Limits

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by extending the boundaries of the Eagle Pass, Texas, port of entry. This extension of boundaries is part of the ongoing efforts of Customs to improve the efficiency of its field operations. The extension of port limits is operationally advantageous to the Customs Service and benefits the importing public.

EFFECTIVE DATE: December 12, 1991.

FOR FURTHER INFORMATION CONTACT: Linda Walfish, Office of Workforce Effectiveness and Development, Office of Inspection and Control (202) 566-9425.

SUPPLEMENTARY INFORMATION:

Background

The Customs organizational structure consists of regions, districts, ports of entry within districts, and stations supervised by ports. The list of designated ports of entry is set forth in § 101.3(b), Customs Regulations (19 CFR 101.3(b)).

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers and the public, Customs is amending § 101.3(b) by extending the geographical limits of the port of entry of Eagle Pass, Texas. The port limits of Eagle Pass had heretofore been described as "the territory within the corporate limits of the city which includes any incorporated areas therein." Such description resulted in uncertainty as to the Customs services available in areas surrounding Eagle Pass.

To correct this situation, Customs proposed a new boundary to include areas beyond the city limits. This was done to facilitate further commercial activity such as bonded warehouses, cattle pens, and a foreign trade zone.

Comments

Notice of the proposed amendment was published in the **Federal Register** on May 7, 1991 (56 FR 21111). No comments were received. Accordingly, after further review of the matter, Customs is adopting the revised boundary as proposed.

Revised Boundary—Eagle Pass Port of Entry

The revised boundary is as follows:

Beginning at the point of intersection of the Rio Grande River and the county line between Maverick County and Kinney County proceed in an easterly direction to the intersection of the county lines of Maverick County, Kinney County, Uvalde County and Zavala County; then in a southern direction along the county line between Maverick County and Zavala County to its intersection with F.M. 2644; then in a westerly direction along F.M. 2644 to its intersection with F.M. 1021; then due west to the water's edge of the Rio Grande River; then in a northwesterly direction along the meanders of the Rio Grande River to its intersection with the county line between Maverick County and Kinney County and Point-of-Beginning.

Executive Order 12291 and Regulatory Flexibility Act

Because this rule relates to agency organization and management, it is not subject to either Executive Order 12291 or the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Drafting Information

The principal author of this document was John E. Doyle, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Organization and functions (Government agencies).

Amendment to the Regulations

Part 101, Customs Regulations (19 CFR part 101), is amended as set forth below:

PART 101—GENERAL PROVISIONS

1. The authority citation for part 101, Customs Regulations (19 CFR part 101), continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 2, 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1623, 1624.

§ 101.3 [Amended]

2. Section 101.3(b) Customs Regulations (19 CFR 101.3(b)), is amended by adding immediately after "Eagle Pass" in the column headed "Ports of entry", in the Laredo, Texas, Customs District of the Southwest

Region, the phrase, "including the territory described in T.D. 91-93".

Michael H. Lane,

Acting Commissioner of Customs.

Dated: October 18, 1991.

Approved:

Peter K. Nunez,

Assistant Secretary of the Treasury.

[FR Doc. 91-27048 Filed 11-8-91; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 86

[Docket No. R-91-1562; FR-3110-F-01]

Requirements Governing the Lobbying of HUD Personnel; Section 112 of the Reform Act

AGENCY: Office of the Secretary, HUD.

ACTION: Interpretive rule.

SUMMARY: To implement section 112 of the Housing and Urban Development Reform Act of 1989, the Department published a final rule in the **Federal Register** on May 17, 1991, at 56 FR 22912 establishing the requirements governing the lobbying of HUD personnel. That rule established a new part 86 in title 24 of the Code of Federal Regulations.

Questions have been raised concerning whether part 86 excludes from its coverage all multi-year agreements, retainers, or other extended arrangements to provide lobbying services that were entered into before June 17, 1991, the effective date of the final rule. The purpose of this interpretive rule is to give clear guidance on part 86's applicability to these types of arrangements.

EFFECTIVE DATE: November 12, 1991.

FOR FURTHER INFORMATION CONTACT: Arnold J. Haiman, Director, Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Telephone: (202) 708-3815; TDD number (202) 708-1112. (These are not toll-free numbers.).

SUPPLEMENTARY INFORMATION: This interpretive rule has no effect on the restrictions on lobbying under the Byrd Amendment, which was effective on December 23, 1989, as set forth at 24 CFR part 87.

Part 86 applies to:

—All agreements to make an expenditure that are entered into on or after June 17, 1991;

—All expenditures made pursuant to an agreement to make an expenditure where the agreement is entered into on or after June 17, 1991; and

—All expenditures made on or after June 17, 1991, where the expenditures are not made pursuant to an agreement.

It is the opinion of the Department that part 86 does not apply to "closed end" lobbying agreements that were entered into before June 17, 1991. To qualify for this "grandfathering," the agreements must have a specific termination date, or must involve a task that, by its nature, will complete the agreement at a specific point in time. Multi-year agreements, retainers, or other extended preexisting arrangements that meet neither of these criteria are fully subject to part 86.

The following examples illustrate this test:

Example 1: An agreement entered into before June 17, 1991 is not subject to part 86, if it provides for "legal assistance on all HUD matters" for a two-year period. The finite nature of the agreement removes it from coverage under part 86. This result obtains without regard to whether the agreement specifies the nature of the financial assistance or the management action involved.

Example 2: An agreement entered into before June 17, 1991 is not subject to part 86, if it pertains to an identified application, e.g., an application for HUD Modernization funding. Although this agreement does not contain a specific termination date, it would, by its nature, be completed once the funding is awarded, and is, therefore, beyond the reach of the rule.

Example 3: An agreement entered into before June 17, 1991 is subject to part 86, if it provides for "legal services on all HUD matters" without specifying a termination date. The result is the same where the agreement calls for lobbying services with respect (for example) to future Modernization funding rounds, without specifying a final round. These examples are subject to part 86, because the agreements involved do not contain identifiable termination dates.

It should also be noted that this "grandfather" from part 86's requirements extends only to the agreement upon which the original exception was based. If a "grandfathered" agreement is renewed or extended on or after June 17, 1991, the resulting agreement is within the coverage of part 86.

The interpretation set forth above represents a balance between the Department's desire to provide full enforcement of the new law and an equitable need not to disturb existing agreements entered into before June 17, 1991. It recognizes the need to provide some protection to preexisting agreements, since they, as well as third party agreements flowing from them, might not have been made, if the parties had known that part 86 applied.

Under this interpretation, it is clear, however, that only preexisting agreements that contain identifiable termination dates qualify for "grandfathering." Open-ended agreements, such as those in the third example, above, lack the specificity—in either time or content—properly to be considered an "agreement" within the meaning of part 86. Limiting the "grandfather" to agreements with termination points will provide a bright line for determining the responsibilities both of the persons subject to part 86 and the Department, and will ensure that part 86 is not subject to abuses stemming from vague and boundless open-ended arrangements.

The Department recognizes that some members of the public may have in good faith used a standard different from that enunciated in this interpretive rule for determining the applicability of part 86 to preexisting, extended lobbying arrangements. To ensure that this rule does not unfairly affect these persons, the Department will not impose any sanctions or penalties, under this rule or otherwise, for any failure during the period ending November 12, 1991, to meet part 86 requirements with respect to agreements entered into before June 17, 1991. On and after November 12, 1991, the requirements of this interpretive rule will govern the treatment of all agreements entered into before June 17, 1991.

Finally, it should be noted that this interpretive rule only covers agreements entered into before June 17, 1991. It does not apply to agreements entered into on or after that date. These latter agreements are not subject to grandfathering, and must comply with all applicable requirements of part 86.

Authority: Secs. 7(d) and 13(g), Department of Housing and Urban Development Act (42 U.S.C. 3535(d) and 3537b(g)).

Dated: October 31, 1991.

Jack Kemp,

Secretary.

Accordingly, the Department adds the discussion contained in the "Supplementary Information" section of this document as appendix C to 24 CFR part 86, captioned as follows:

Appendix C to Part 86—Interpretive Rules of the Department Pertaining to Requirements Governing the Lobbying of HUD Personnel

Interpretive rule dated November 12, 1991.

[FR Doc. 91-27110 Filed 11-8-91; 8:45 am]

BILLING CODE 4210-32-M

24 CFR Parts 813 and 913

[Docket No. R-91-1566; FR-3072-F-01]

Definition of Income Limits

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends §§ 813.102 and 913.102 of title 24 of the Code of Federal Regulations by adding a definition for the term "income limits" to each. It implements section 573(d) of the National Affordable Housing Act (NAHA) (approved November 28, 1990, Pub. L. 101-625), which requires a change in the method of determining income limits for Westchester County, New York.

EFFECTIVE DATE: December 12, 1991.

FOR FURTHER INFORMATION CONTACT: Issues related to part 813 and programs administered by the Assistant Secretary for Housing—Federal Housing Commissioner: James J. Tahash, Director, Planning and Procedures Division, Office of Multifamily Housing Management, room 6182, 451 Seventh Street SW., Washington, DC 20410, Telephone (202) 708-3944. A telecommunications device for deaf persons (TDD) is available at (202) 708-4594. (These are not toll-free telephone numbers.) Issues related to part 913 and programs administered by the Assistant Secretary for Public and Indian Housing: Casimir Bonkowski, Director, Office of Management and Policy, Office of Public and Indian Housing, room 4224, 451 Seventh Street SW., Washington, DC 20410, Telephone (202) 708-0444. A telecommunications device for deaf persons (TDD) is available at (202) 708-0850. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION: This final rule implements section 573(d) of the National Affordable Housing Act (NAHA), which requires HUD to determine separate median incomes and income ceilings and limits for Westchester County, New York, as if the county were not contained within the metropolitan statistical area (MSA) in which it is located. The provision also requires HUD to continue to use Westchester County, New York, in determining area median incomes, ceilings and limits for the MSA in which Westchester County is located.

Section 573(e) of NAHA provides that this regulation may not take effect until after September 30, 1991.

HUD is implementing this provision by adding a definition for the term "income limits" at 24 CFR 813.102, which lists definitions used in the eligibility regulations for housing assisted under section 8 of the United States Housing Act of 1937 ("the 1937 Act"); and at 24 CFR 913.102, which lists definitions used in the eligibility regulations for public housing.

Because the Department has not defined the term "income limits" in these regulations before, the definition set forth here briefly describes the statutory procedure used to set income limits and then implements the statutory change affecting Westchester County as an exception to this procedure.

The Department has determined that the changes made by this rule should be adopted without the delay occasioned by requiring prior notice and comment. These changes simply construe statutory language and do not seek to impose obligations that are not in the statute. As such, the rule is exempt, as an interpretive rule under 24 CFR part 10, from notice and comment requirements.

Findings and Certifications

Economic Impact. This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

Environmental Impact. This action is categorically excluded from the NEPA requirements at 24 CFR part 50 in accordance with 24 CFR 50.20(1) because it relates to a statutorily required establishment of a HUD-determined rate which does not constitute a development decision that affects the physical condition of specific project areas or building sites.

Regulatory Flexibility Act. Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule is only a straightforward implementation of a statutory requirement that adjusts the way income limits are determined for a single county.

Federalism. The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule do not have federalism implications and, thus, are not subject to review under the Order. This rule only implements a statutory requirement that affects a single county, and it will not have substantial, direct effects on States, on their political subdivisions, or on their relationships with the Federal government, or on the distribution of power and responsibilities between them and other levels of government.

Family Impact. The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this rule does not have a potentially significant impact on family formation, maintenance, and general well-being, since it implements a statutory requirement that affects only a single county and thus, is not subject to review under the Order.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on October 21, 1991 (56 FR 53380) under Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects

24 CFR Part 813

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements, Utilities.

24 CFR Part 913

Grant programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

Accordingly, the Department amends 24 CFR parts 813 and 913 as set forth below:

PART 813—DEFINITION OF INCOME, INCOME LIMITS, RENT AND REEXAMINATION OF FAMILY INCOME FOR THE SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS AND RELATED PROGRAMS

1. The authority citation for 24 CFR part 813 continues to read as follows:

Authority: Secs. 3, 5(b), 8, 16, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f, 1437n); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 813.102 is amended by adding a new definition to read as follows:

§ 813.102 Definitions.

* * * * *

Income limits. HUD establishes Very Low-Income and Low-Income limits that are used to determine if assisted housing program applicants qualify for

admission to HUD-assisted programs. These income limits are based on HUD estimates for area median family income (using Metropolitan Statistical Areas or Primary Metropolitan Statistical Areas as defined by the Office of Management and Budget (OMB), and the Bureau of the Census definition of family) with specific statutorily permissible adjustments. If the income limits based on this approach would be less than if based on the relevant State nonmetropolitan median family income level, income limits are based on the State nonmetropolitan family income level. A statutory exception to the use of Metropolitan Statistical Areas (MSAs) or Primary Metropolitan Statistical Areas (PMSAs) applies to Westchester County, New York, for which median income and income limits are computed as if Westchester County were a separate area, and not included in any MSA or PMSA. Westchester County is included for purposes of establishing the income limits for the Primary Metropolitan Statistical Area in which it is located.

* * * * *

PART 913—DEFINITION OF INCOME, INCOME LIMITS, RENT AND REEXAMINATION OF FAMILY INCOME FOR THE PUBLIC HOUSING PROGRAM

3. The authority citation for 24 CFR part 913 continues to read as follows:

Authority: Secs. 3, 6, 16, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437d, 1437n); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

4. Section 913.102 is amended by adding a new definition to read as follows:

§ 913.102 Definitions.

* * * * *

Income limits. HUD establishes Very Low-Income and Low-Income limits that are used to determine if assisted housing program applicants qualify for admission to HUD-assisted programs. These income limits are based on HUD estimates for area median family income (using Metropolitan Statistical Areas or Primary Metropolitan Statistical Areas as defined by the Office of Management and Budget (OMB), and the Bureau of the Census definition of family) with specific statutorily permissible adjustments. If the income limits based on this approach would be less than if based on the relevant State nonmetropolitan median family income level, income limits are based on the State nonmetropolitan family income level. A statutory exception to the use of Metropolitan Statistical Areas (MSAs) or Primary Metropolitan Statistical Areas (PMSAs) applies to Westchester County, New York, for which median income and income limits are computed as if Westchester County were a separate area, and not included in any MSA and PMSA. Westchester County is included for purposes of establishing the income limits for the Primary Metropolitan Statistical Area in which it is located.

* * * * *

Dated: October 31, 1991.

Jack Kemp,

Secretary.

[FR Doc. 91-27111 Filed 11-8-91; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD1 91-016]

Drawbridge Operation Regulations; Danvers River, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Massachusetts Department of Public Works (MDPW), the Coast Guard is changing the regulations governing the Beverly-Salem SR1A Bridge and the Massachusetts Bay Transportation Authority (MBTA)/AMTRAK Bridge both between Beverly and Salem, Massachusetts, at mile 0.0 and mile 0.05 respectively, and the Essex County Kernwood bridge between Peabody and Beverly, Massachusetts, at mile 1.0, all over the Danvers River. The final rule permits the draw of the SR1A Bridge to remain closed during the morning and evening rush hours and discontinues it's noontime closure. The final rule also revises the hours when advance notice for an opening is required at all three bridges. This change is necessary because periods of peak vehicular traffic have changed. This action will accommodate the current needs of vehicular traffic, relieve the bridge owner of the burden of having a person constantly available to open the draws and still provide for the reasonable needs of navigation.

DATES: These regulations become effective on December 12, 1991.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, First Coast Guard District, (212) 668-7170.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of these regulations are John McDonald, Project Officer, and Lieutenant Commander John Astley, project attorney.

Regulatory History

On June 12, 1991, the Coast Guard published a proposed rule (56 FR 26948), concerning these amendments. The Commander, First Coast Guard District, also published the proposal as a Public Notice dated June 28, 1991. In each notice interested persons were given until August 30, 1991, to submit comments. The regulation was also implemented as a temporary regulation (56 FR 26909) for 60 days from 1 July through 29 August 1991.

Background and Purpose

The final rule permits the draw of the SR1A Bridge to remain closed during the morning and evening rush hours and discontinues it's noontime closure. The final rule also revises the hours when advance notice for an opening is required at all three bridges. This change of action is necessary because periods of peak vehicular traffic have changed. This action will accommodate the current needs of vehicular traffic, relieve the bridge owner of the burden of having a person constantly available to open the draws and still provide for the reasonable needs of navigation.

Discussion of Comments

Seven written comments were received in response to the public notice. All seven were in favor of the proposed regulation change. Of the comments in favor, one suggested the installation of automatic traffic gates to reduce opening time and one requested that the closed period not be allowed on weekends. Automation of the traffic gates is a decision of the bridge owner and not a Coast Guard regulated function. The closed periods for the morning and evening rush hour apply only Monday through Friday and not on weekends, therefore, there is no need to change the regulation. The general consensus of residents of the area is that the SR1A bridge is a very heavily travelled scenic shore route for tourists and local traffic and the implementation of this regulation will greatly reduce traffic congestion in the Beverly/Salem area.

Regulatory Evaluation

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under the Department of Transportation regulatory policies and

procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. This opinion is based on the fact that the regulation will not prevent the mariners from transiting the bridge but will only require advance notice for openings and scheduling of transits.

Small Entities

Because it expects the impact of these regulations to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This action has been analyzed under the principles and criteria in Executive Order 12612, and it has been determined that this regulation does not have sufficient federalism implications to warrant reparation of a federal assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying at the John Foster Williams Building, rm 628, 408 Atlantic Ave, Boston, Massachusetts.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.595 is revised and appendix A to part 117 is amended to revise the entries for the Danvers River under the State of Massachusetts to read as follows:

§ 117.595 Danvers River.

(a) The following requirements apply to all bridges across the Danvers River:

(1) Public vessels of the United States, state or local vessels used for public safety, commercial vessels, and vessels in distress shall be passed through the draw of each bridge as soon as possible without delay at any time. The opening signal from these vessels if four or more short blasts of a whistle, horn, or a radio request.

(2) The owners of these bridges shall provide and keep in good legible condition clearance gauges for each draw with figures not less than 12 inches high designed, installed and maintained according to the provisions of § 118.160 of this chapter.

(3) Trains and locomotives shall be controlled so that any delay in opening the draw span shall not exceed ten minutes. However, if a train moving toward the bridge has crossed the home signal for the bridge before the signal requesting opening of the bridge is given, that train may continue across the bridge and must clear the bridge interlocks before stopping.

(4) Except as provided in paragraphs (b) through (c) of this section, the draws shall open on signal.

(b) The draw of the Beverly-Salem SR1A Bridge, mile 0.0 between Salem and Beverly, MA shall operate as follows:

(1) The draw shall open on signal, except that from 12 midnight to 5 a.m. daily and all day on December 25 and January 1, the draw shall open as soon as possible, but not more than one hour, after notice is given to the drawtenders either at the bridge during the time the operators are on duty or by calling the advance notice telephone number posted.

(2) Except as provided in paragraph (a)(1) of this section, the draw need not be opened Monday through Friday, except federal holidays, between 7:30 a.m. and 9 a.m. and between 4:30 p.m. and 6 p.m.

(c) The draws of the Massachusetts Bay Transit Authority (MBTA)/Amtrak Bridge at mile 0.05 between Salem and Beverly and the Essex County Kernwood bridge at mile 1.0 between Peabody and Beverly, MA, shall open on signal, except that from 12 midnight to 5 a.m. daily and all day on December 25 and January 1, the draw shall open as soon as possible, but not more than one hour, after notice is given to the drawtenders either at the bridge during the time the operators are on duty or by calling the advance notice telephone numbers posted.

APPENDIX A TO PART 117—DRAWBRIDGES EQUIPPED WITH RADIOTELEPHONES

Waterway	Mile	Location	Bridge name and owner	Call sign	Calling channel	Working channel
*	*	*	*	*	*	
Massachusetts						
*	*	*	*	*	*	
Danvers River	0.0	Beverly/Salem	SR1A, MDPW	Pending	16	13
	0.05	Beverly/Salem	MBTA/AMTRAK, MBTA/AMTRAK	WRD 625	16	13
	1.0	Peabody/Beverly	Essex County Kernwood, MDPW	Pending	16	13
*	*	*	*	*	*	

Dated: November 1, 1991.

K.W. Thompson,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 91-27091 Filed 11-8-91; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 8

RIN 2900-AF17

Discount Rate for Premiums Paid in Advance

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs is amending its regulations to increase the discount which National Service Life Insurance (NSLI), Veterans Special Life Insurance (VSLI), and Veterans Reopened Insurance (VRI) policyholders receive for paying premiums in advance of the monthly due date. This action is administratively and actuarially sound and complies with relevant statutory authority.

EFFECTIVE DATE: December 12, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Koons, Assistant Director for Insurance, Department of Veterans Affairs Regional Office and Insurance Center, P.O. Box 8079, Philadelphia, Pennsylvania 19101, (215) 951-5360.

SUPPLEMENTARY INFORMATION: On page 25649 of the **Federal Register** (56 FR 25649) of June 5, 1991, the Department of Veterans Affairs published a proposed regulatory amendment to increase the discount which NSLI, VSLI, and VRI policyholders receive for paying premiums in advance of the monthly due date.

Interested parties were given 30 days in which to submit written comments, suggestions or objections regarding the proposed amendment. No written objections were received and the proposed amendment is hereby adopted without change as set forth below.

The Secretary of Veterans Affairs hereby certifies that this final regulation will not have a significant impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), this final regulation is, therefore, exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that this final regulation will affect only certain Government Life Insurance policyholders. It will, therefore, have no significant direct impact on small entities in terms of compliance costs, paperwork requirements, or effects on competition.

The Department of Veterans Affairs has determined that this final regulation is nonmajor in accordance with Executive Order 12291. Federal Regulation. This amendment will not have a $100 million annual effect on the economy, will not cause a major increase in costs or prices, and will not otherwise have any significant adverse economic effects.

The Catalog of Federal Domestic Assistance number for this proposed regulation is 64.103.

List of Subjects in 38 CFR Part 8

Disability benefits, Life Insurance, Veterans.

Approved: October 11, 1991.

Edward J. Derwinski,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 8 is amended to read as follows:

PART 8—NATIONAL SERVICE LIFE INSURANCE

1. The authority citation for part 8 is revised to read as follows:

Authority: 38 U.S.C. 210, 701-724, 781-788.

2. The third sentence of § 8.5 is revised and the authority citation for § 8.5 is added at the end of the section to read as follows:

§ 8.5 Due date of premiums.

* * * In any case in which premiums are paid in advance, the premium payable will be the sum of the monthly premiums for the period discounted at the same interest rate as that on which the premium charges are based as set forth in § 8.3, except that for premiums paid in advance on participating National Service Life Insurance, Veterans Special Life Insurance, and Veterans Reopened Insurance on or after December 12, 1991 the discount shall be based on a 7½ percent interest rate. * * *

(Authority: 38 U.S.C. 1929)

[FR Doc. 91-27073 Filed 11-8-91; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NM-6-1-5211; FRL-4024-6]

Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Permitting Program Regulatory Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This notice approves a revision to the New Mexico State Implementation Plan (SIP) to include (1) new Air Quality Control Regulations (AQCRs) 110—Confidential Information Protection an 703.1—Notice of Intent and Emissions Inventory Requirements, as both filed with the State Records and Archives Center on May 29, 1990; and (2) revisions to AQCR 702—Permits, as filed with the State Records and Archives Center on August 18, 1987, on October 19, 1988, and on May 29, 1990; and (3) revisions to AQCRs 100—Definitions, and 709—Permits—Nonattainment Areas, as both filed with the State Records and Archives Center on May 29, 1990. AQCRs 110 and 703.1, and revisions to AQCRs 100 and 709, were submitted by the Governor of New Mexico to EPA on July 16, 1990. Revisions to AQCR 702 were first submitted by the Governor of New

Mexico to EPA on September 17, 1987. Further revisions to AQCR 702 were submitted to EPA on October 28, 1988, and on July 16, 1990. Approval of AQCRs 110, 703.1, and revised AQCR 702 will allow the disclosure of emission data and will allow the Federal Implementation Plan (FIP) found at 40 CFR 52.1623, "General requirements," to be revoked. Comments addressing each AQCR will be presented below.

DATES: This action will be effective January 13, 1992 unless notice is received within 30 days of publication that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this proposed action are available for public inspection during normal business hours at the following location. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least twenty-four hours before the visiting day.

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T–AP), 1445 Ross Avenue, Dallas, Texas 75202–2733.

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

New Mexico Environment Department, Air Quality Bureau, 1190 St. Francis Drive, room So. 2100, Santa Fe, New Mexico 87503.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Sather or Mr. Bill Deese, Planning Section (6T–AP), Air Programs Branch, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 655–7214, or FTS 255–7214.

SUPPLEMENTARY INFORMATION: On July 16, 1990, the Governor of New Mexico submitted five AQCRs to EPA for incorporation into the New Mexico SIP. Each AQCR will be individually addressed below.

AQCR 110

New Mexico AQCR 110—Confidential Information Protection, is a new regulation submitted to adequately clarify confidential information protection procedures to be used when evaluating any records within the New Mexico Environment Department. Any emissions data is now clearly releasable to the public. AQCR 702—Permits, references AQCR 110 in section E, "Confidential Information Protection." AQCR 110 details how confidentiality is determined and how confidentiality claims are reviewed. The approval of AQCR 110 will enable the FIP conditions found in 40 CFR 52.1623 to be revoked as outlined in the Final Action section below.

AQCR 703.1

New Mexico AQCR 703.1—Notice of Intent and Emissions Inventory Requirements, is a new regulation which will replace New Mexico AQCR 703—Registration of Air Contaminant Sources. New Mexico submitted a SIP revision on May 4, 1988, to EPA requesting that EPA remove AQCR 703 from the New Mexico SIP. In the completeness letter to the State dated July 5, 1988, EPA stated that:

> Although our review of this SIP revision request will continue, we have identified a preliminary issue which needs to be resolved. Section 110(a)(2)(F)(ii) of the Clean Air Act and 40 CFR 51.211 require that SIPs provide for obtaining information from sources on the nature and amounts of their emissions, a function we believe was served in part by AQCR 703. In the absence of an explanation on how the New Mexico Environmental Improvement Division (NMEID) will obtain the information necessary to keep New Mexico's emissions inventory current, it is doubtful EPA will be able to approve this revision request.

EPA can now approve the May 4, 1988, request to remove AQCR 703 from the New Mexico SIP by replacing it with AQCR 703.1. The approval of AQCR 703.1 will also enable the SIP conditions found in 40 CFR 52.1623 to be revoked as outlined in the Final Action section below. New Mexico AQCR 703.D was earlier disapproved because this section could, in some circumstances, prohibit the disclosure of emission data to the public. The submission of AQCR 703.1 (to replace AQCR 703) has corrected this deficiency. In addition to providing applicability, reporting, and emissions inventory content requirements, AQCR 703.1 outlines "Notice of Intent to Construct" requirements for applicable new stationary sources.

AQCR 702

Revisions to AQCR 702—Permits are being approved today in order to update the New Mexico Permit Program, and to revoke 40 CFR 52.1623. The existing SIP-approved New Mexico AQCR 702 (adopted July 29, 1972, by the New Mexico Environmental Improvement Board), along with AQCR 703, had been partially disapproved at 40 CFR 52.1623 for failure to meet the requirements of 40 CFR 51.116(c) concerning data availability. 40 CFR 51.116(c) states that:

> Each plan must provide for public availability of emission data reported by source owners or operators or otherwise obtained by a State or local agency. Such emission data must be correlated with applicable emission limitations or other measures. As used in this paragraph, correlated means presented in such a manner as to show the relationship between measured or estimated amounts of emissions and the amounts of such emissions allowable under the applicable emission limitations or other measures.

On September 17, 1987, New Mexico submitted a SIP revision to EPA (an amended AQCR 702) to request that EPA revise the disapproval in 40 CFR 52.1623 for Section E of AQCR 702. The disapproval stated that section 702.E could, in some circumstances, prohibit the disclosure of emission data to the public. The September 17, 1987, submittal was not found to meet all the requirements of 40 CFR 51.116(c). Further revisions to AQCR 702, however, submitted to EPA on October 28, 1988, and on July 16, 1990, have adequately clarified the availability of emissions data to the public. This revised AQCR 702 contains a new Section E, "Confidential Information Protection." This section states that all confidentiality claims made regarding material submitted to the New Mexico Environment Department under AQCR 702 shall be reviewed under the provisions of AQCR 110.

AQCR 100

EPA is today approving revisions to New Mexico AQCR 100—Definitions, as filed with the State Records and Archives Center on May 29, 1990. Previous revisions to AQCR 100 were approved on October 4, 1977 (42 FR 53963). In addition, on August 21, 1990 (55 FR 34013), EPA approved five particulate matter definitions found in AQCR 100, Sections (P), (Q), (R), (S), and (BB), as filed with the State Records and Archives Center on August 1, 1988. Today's approval of further revisions to AQCR 100 adequately updates this regulation for present use in the New Mexico air quality control program and is consistent with the Clean Air Act and the Code of Federal Regulations.

AQCR 709

EPA is also approving the latest revisions to New Mexico AQCR 709—Permits—Nonattainment Areas, as filed with the State Records and Archives Center on May 29, 1990. Again, this revision adequately updates this regulation for present use in the New Mexico air quality control program. AQCR 709 was initially approved on June 4, 1990 (55 FR 22784). Revisions to AQCR 709 addressing PM_{10} requirements were approved on August

21, 1990 (55 FR 34013). The reader should refer to the previously cited **Federal Register** notices for the background information, history, and issues associated with this regulation. The latest revisions to AQCR 709 include removing a section (Section J, "Exemptions to D.4 and D.5") which exempted temporary emission sources and resource recovery facilities from certain emission offsets requirements. These exemptions are not allowed by EPA (Please refer to the proposed approval of AQCR 709 in 53 FR 33505). The revisions also re-letter a portion of the regulation after removing the above referenced section, and clarify applicability, source obligation, source information, source requirements, visibility requirements, air quality benefit requirements, public participation and notification requirements, and definitions pertaining to the permitting of major sources in nonattainment areas. These clarifications represent small and noncontroversial changes to AQCR 709. However, it should be noted that today's action on AQCR 709 approves the definition of "Significant" (K.27) to include a new PM_{10} emissions rate of 15 tons per year (tpy) (replacing the particulate matter emissions rate of 25 tpy).

Final Action: The EPA is today approving (1) new Air Quality Control Regulations (AQCRs) 110—Confidential Information Protection and 703.1—Notice of Intent and Emissions Inventory Requirements, as both filed with the State Records and Archives Center on May 29, 1990; and (2) revisions to AQCR 702, as filed with the State Records and Archives Center on August 18, 1987, on October 19, 1988 and on May 29, 1990; and (3) revisions to AQCRs 100—Definitions, and 709—Permits—Nonattainment Areas, as both filed with the State Records and Archives Center on May 29, 1990. The submittal of AQCRs 110, 703.1, and revised AQCR 702 allow for the requirements of 40 CFR 51.116(c) regarding public availability of emissions data to be met. AQCR 702.E and AQCR 703.D were disapproved at 40 CFR 52.1623(a) for not meeting the requirements of 40 CFR 51.116(c), and 40 CFR 52.1623(b) outlined the Federal requirements for public availability of emission data since the New Mexico regulations were found to be deficient according to 40 CFR 52.1623(a). New Mexico has now corrected the deficiency in AQCR 702.E (by referencing AQCR 110) and has replaced deficient AQCR 703 with AQCR 703.1. Thus, today's approval of AQCRs 110, 703.1, and revised AQCR 702 allows EPA to revoke 40 CFR 52.1623, "General requirements."

The EPA has reviewed these revisions to the New Mexico SIP and is approving them as submitted. EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective January 13, 1992 unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective January 13, 1992.

The EPA has reviewed this request for revision of the federally-approved State implementation plan for conformance with the provisions of the 1990 Amendments enacted on November 15,1990. The EPA has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

Regulatory Process: This action has been classified as a table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived tables 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 13, 1992. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Authority: 42 U.S.C. 7401–7642.

Note: Incorporation by reference of the SIP for the State of New Mexico was approved by the Director of the Federal Register on July 1, 1982.

Dated: October 11, 1991.

Robert E. Layton, Jr.,

Regional Administrator (6A).

40 CFR part 52, subpart GG, is amended as follows:

PART 52—[AMENDED]

1. The Authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart GG—New Mexico

2. Section 52.1620 is amended by adding paragraph (c)(44) to read as follows:

§ 52.1620 Identification of plan.

* * * * *

(c) * * *

(44) A revision to the New Mexico State Implementation Plan (SIP) to include: Air Quality Control Regulation 110—Confidential Information Protection, and Air Quality Control Regulation 703.1—Notice of Intent and Emissions Inventory Requirements, and revisions to Air Quality Control Regulations 100—Definitions and 709—Permits—Nonattainment Areas, as all filed with the State Records and Archives Center on May 29, 1990, and submitted by the Governor of New Mexico on July 16, 1990; and revisions to Air Quality Control Regulation 702—Permits, as filed with the State Records and Archives Center on August 18, 1987, on October 19, 1988, and on May 29, 1990. Air Quality Control Regulation 702

was first submitted by the Governor of New Mexico to EPA on September 17, 1987. Further revisions to Air Quality Control Regulation 702 were submitted to EPA on October 28, 1988, and on July 16, 1990. The approval of Air Quality Control Regulation 703.1 allows Air Quality Control Regulation 703 to be removed from the New Mexico State Implementation Plan.

(i) Incorporation by reference

(A) New Mexico Air Quality Control Regulation 110—Confidential Information Protection, as filed with the State Records and Archives Center on May 29, 1990.

(B) New Mexico Air Quality Control Regulation 703.1—Notice of Intent and Emissions Inventory Requirements, "Part One—Definitions;" "Part Two—Notice of Intent;" and "Part Three—Emissions Inventory Requirements," as filed with the State Records and Archives Center on May 29, 1990.

(C) New Mexico Air Quality Control Regulation 100—Definitions, sections (B), (C), (D), (E), (F), (G), (H), (I), (J), (N), (O), (T), (U), (V), (W), (X), (Y), (Z), (AA), (CC), (DD), and (EE), as filed with the State Records and Archives Center on May 29, 1990.

(D) New Mexico Air Quality Control Regulation 702—Permits, "Part One—Definitions," first paragraph and sections 1, 2, 3, 4, 5; "Part Two—Permit Processing and Requirements," section A, subsections A(4), A(6); section G, "Public Notice and Participation," subsections G(1) (first paragraph), G(1)(e); section H, "Permit Decisions and Appeals," subsections H(1), H(2), H(3), H(5), H(6), H(7); Section I, "Basis for Denial of Permit," subsections I(1), I(3); Section J, "Additional Legal Responsibilities on Applicants;" section K, "Permit Conditions," subsections K(1), K(2), K(3), K(4); section L, "Permit Cancellations;" section M, "Permittee's Notification Requirements to Division," subsections M (first paragraph), M(1); Section O, "Source Class Exemption Process (Permit Streamlining)," subsections O(1)(a), O(2); and section P, "Emergency Permit Process," subsections P(2), P(3), P(4), as filed with the State Records and Archives Center on August 18, 1987; and further revisions to Air Quality Control Regulation 702, "Part One—Definitions," sections 6, 7, 8, 9, 10, 11; "Part Two—Permit Processing and Requirements," section A, subsection A(1)(b); section H, "Permit Decisions and Appeals," subsection H(4); and section I, "Basis for Denial of Permit," subsection I (first paragraph), as filed with the State Records and Archives Center on October 19, 1988; and further revisions to Air Quality Control Regulation 702, "Part One—Definitions," Sections 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33; "Part Two—Permit Processing and Requirements," section A, "Application for Construction, Modification, NSPS, and NESHAP—Permits and Revisions," Subsections A(1)(a)(i), A(1)(a)(ii), A(1)(a)(iii), A(1)(a)(v), A(2), A(3), A(5), A(7); Section B, "New Source Review Coordination;" section C, "Permit Revision;" section D, "Contents of Applications (except last sentence of section D, subsection D(1)(d));" section E, "Confidential Information Protection;" section F, "Construction, Modification and Permit Revision in Bernalillo County;" section G, "Public Notice and Participation," subsections G(1)(a), G(1)(b), G(1)(c), G(1)(d), G(1)(f), G(2); section I, "Basis for Denial of Permit," subsections I(2), I(4), I(5), I(6), I(7); section K, "Permit Conditions," subsection K(5); section M, "Permittee's Notification Requirements to Division," Subsections M(2), M(3), M(4); section N, "Startup and Followup Testing;" Section O, "Source Class Exemption Process (Permit Streamlining)," subsections O(1) (first paragraph), O(1)(b), O(1)(c), O(3), O(4); section P, "Emergency Permit Process," subsections P(1), P(5); section Q, "Nonattainment Area Requirements;" and Table 1, "Significant Ambient Concentrations," as filed with the State Records and Archives Center on May 29, 1990.

(E) New Mexico Air Quality Control Regulation 709—Permits—Nonattainment Areas, section A, "Applicability," subsections A(1), A(3), A(4); section B, "Source Obligation," subsections B(3), B(5), B(6); section C, "Source Information," subsections C (first paragraph), C(1), C(2); section D, "Source Requirements," subsections D(1), D(2), D(3), D(4), D(5); section E, "Additional Requirements for Sources Impacting Mandatory Federal Class I Areas," subsections E(1), E(2), E(5); section H, "Banking of Emission Reduction," subsection H(4)(a); section I, "Air Quality Benefit," subsections I(1), I(2); section J, "Public Participation and Notification;" section K, "Definitions;" and Table 2, "Fugitive Emissions Source Categories," Title only, as filed with the State Records and Archives Center on May 29, 1990.

§ 52.1623 [Removed]

3. Section 52.1623 is removed and reserved.

[FR Doc. 91-27050 Filed 11-8-91; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 80

[FCC 91-312]

Allowance of Certain Ship Earth Station Equipment To Be Used in the INMARSAT Space Segment

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document will amend the rules to permit the use of ship earth station equipment in the INMARSAT space segment provided that such equipment meets with specifications set by INMARSAT. The effect of this rule will be to simplify the equipment authorization process for manufacturers of shipboard satellite equipment thus making the equipment more easily and quickly available to the consumer.

EFFECTIVE DATE: November 12, 1991.

FOR FURTHER INFORMATION CONTACT: Susan Jones, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order*, RM 7512, FCC 91-312, Adopted October 2, 1991, and Released October 23, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1114 21st Street NW., Washington, DC 20036.

Summary of Order

This action was requested by Koden International, Inc., by petition to amend § 80.203(g) of the Commission's Rules to allow the INMARSAT-C ship earth station equipment to be used to the INMARSAT satellite communications space segment. This action extends a rule change adopted by the Commission in 1983, that permitted manufacturers of INMARSAT-A equipment to use the Commission's verification process instead of a more burdensome type acceptance process, provided that the equipment met certain specifications set forth by INMARSAT technical documents. The INMARSAT-C is a smaller, less complex transmitter than the INMARSAT-A. In addition to the INMARSAT-C, ship earth station equipment capable of operating in the INMARSAT space segment continues to

broaden with more models and types available, offering a variety of capabilities.

Because of the specificity of the current rules that reference only INMARSAT–A equipment, this Order will expand the rules previously adopted to permit the use of the INMARSAT–C, as well as all ship earth equipment, provided the equipment meets the specifications set by INMARSAT and is type approved by INMARSAT.

Ordering Clauses

Authority for this action is contained in sections 154(i) and 303(f) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(f). For the reasons set out in the Preamble, Part 80 of the Commission's Rules, 47 CFR part 80, is amended, as set forth below. This action benefits the public and will permit manufacturers to market INMARSAT–C ship earth stations, therefore we find good cause to make this rule effective upon publication in the Federal Register.

List of Subjects in 47 CFR Part 80

Marine safety, Radio.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Amended Rule

Part 80 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 80—STATIONS IN THE MARITIME SERVICES

1. The authority citation for part 80 continues to read as follows:

Authority: Sections 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; UST 3450, 3 UST 4726, 12 UST 2377.

2. Section 80.203 is amended by revising the second sentence of paragraph (g) to read as follows:

§ 80.203 Authorization of transmitters for licensing.

* * * * *

(g) * * * Such equipment must be verified in accordance with the technical requirements provided by INMARSAT and must be type approved by INMARSAT for use in the INMARSAT space segment. * * *

* * * * *

[FR Doc. 91–27077 Filed 11–8–91; 8:45 am]

BILLING CODE 6712–01–M

OFFICE OF PERSONNEL MANAGEMENT

48 CFR Parts 1631 and 1652

RIN 3206–AE47

Federal Employees Health Benefits Acquisition Regulations Contract Cost Principles and Procedures; Contract Clauses

AGENCY: U.S. Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing final regulations to implement the State premium tax provisions of section 7002(c) of Public Law 101–508. This legislation exempts Federal Employees Health Benefits (FEHB) Program carriers, underwriters, and plan administrators from State taxes on FEHB premiums. These regulations state that such charges will not be an allowable cost to the FEHB contract.

EFFECTIVE DATE: December 12, 1991.

FOR FURTHER INFORMATION CONTACT: Abby Block, (202) 606–0775, ext. 207, or FTS 266–0775.

SUPPLEMENTARY INFORMATION: On May 6, 1991, OPM issued proposed regulations in the Federal Register (56 FR 20574) that amended section 1649.002–70 of title 48 of the Code of Federal Regulations (FEHBAR) to identify which sections of the FEHB law and regulations control the nonrenewal of an FEHB contract at the end of the contract term. The regulation also implemented section 7002(c) of Public Law 101–508, which exempts FEHB Program carriers, underwriters, and plan administrators from State taxes on FEHB premiums, by amending part 1631 of title 48 of the Code of Federal Regulations to state that the charge of a premium tax by a carrier to the FEHB contract will not be an allowable cost. These final regulations deal with the premium tax portion of the proposed regulations; we will make a final determination on the contract termination portion at a later date.

OPM received comments from one FEHBP fee-for-service plan carrier, one association representing several fee-for-service plans, and one fee-for-service plan underwriter. The comments are addressed below.

Two commenters thought that the regulations concerning premium taxes should be amended to state that such taxes are unallowable costs, except when the carrier, underwriter, or administrative subcontractor is compelled by a court order to pay such taxes. OPM does not feel that we need to regulate on this issue.

Another commenter proposed additional wording to the premium tax regulations to clarify their applicability. We have revised the regulations to incorporate this change, with modification from the legislative language.

One commenter suggested that a section of the FEHBAR defining premium taxes be removed, since it is not fully consistent with the current law. The definition has been revised in accordance with the revised premium tax language elsewhere in the FEHBAR.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily clarify existing regulations.

List of Subjects in 48 CFR Parts 1631, 1649 and 1652

Administrative practice and procedure, Government contracts, Health insurance.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM is amending its regulations under 48 CFR parts 1631 and 1652 as follows:

PART 1631—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for part 1631 continues to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

2. In subpart 1631.2 a new section 1631.205–41 is added to read as follows:

§ 1631.205–41 Taxes.

5 U.S.C. 8909(f)(1) prohibits the imposition of taxes, fees, or other monetary payment, directly or indirectly, on FEHB premiums by any State, the District of Columbia, or the Commonwealth of Puerto Rico, or by any political subdivision or other governmental authority of those entities. Therefore, FAR 31.205–41 is modified to include those taxes as unallowable costs. The prohibited payments, referred to elsewhere in these regulations as "premium taxes," applies to all payments directed by States or municipalities, regardless of how they

may be titled, to whom they must be paid, or the purpose for which they are collected, and it applies to all forms of direct and indirect measurements on FEHBP premiums, however modified, to include cost per contract or enrollee, with the sole exception of a tax on net income or profit, if that tax, fee, or payment is applicable to a broad range of business activity.

PART 1652—CONTRACT CLAUSES

1. The authority citation for part 1652 continues to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

2. Section 1652.216–71 is amended by revising the second sentence of paragraph (b)(2)(ii) and by revising paragraph (b)(2)(iv)(B) as set forth below.

§ 1652.216–71 Accounting and allowable cost.

* * * * *

(b) * * *

(2) * * *

(ii) * * * Unless otherwise stated in the contract, administrative expenses include, in part: all taxes (excluding premium taxes, as provided in section 1631.205–41), insurance and reinsurance premiums, medical and dental consultants used in the adjudication process, concurrent or managed care review when not billed by a health care provider and other forms of utilization review, the cost of maintaining eligibility files, legal expenses incurred in the litigation of benefit payments and bank charges for letters of credit. * * *

* * * * *

(iv) * * *

(B) Premium taxes. When the term "premium taxes" is used in this contract without further definition or explanation, it means a tax, fee, or other monetary payment directly or indirectly imposed on FEHB premiums by any State, the District of Columbia, or the Commonwealth of Puerto Rico, or by any political subdivision or other governmental authority of those entities, with the sole exception of a tax on net income or profit, if that tax, fee, or payment is applicable to a broad range of business activity.

* * * * *

[FR Doc. 91–27039 Filed 11–8–91; 8:45 am]
BILLING CODE 6325–01–M

Proposed Rules

Federal Register
Vol. 56, No. 218
Tuesday, November 12, 1991

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010.8-R]

RIN-0720-AA10

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Certified Marriage and Family Therapists

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed Rule.

SUMMARY: This rule proposes to amend the regulations to comply with section 702 of the National Defense Authorization Act for Fiscal Year 1991 which removed the requirement for physician supervision and referral for certified marriage and family therapists and requires all certified marriage and family therapists to accept CHAMPUS payment as payment in full. Based on House and Senate Committee reports, the intent of this amendment is to ensure that the relationship of certified marriage and family therapists is consistent with other mental health practitioners with comparable education and training while also protecting the CHAMPUS beneficiaries from incurring added out-of-pocket costs for care rendered that is not part of the current CHAMPUS mental health benefits package.

DATES: Written public comments must be received on or before December 12, 1991.

ADDRESSES: Forward comments to the Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Office of Program Development, Aurora, CO 80045-6900.

FOR FURTHER INFORMATION CONTACT: Judy Carroll, Office of Program Development, OCHAMPUS, telephone (303) 361-3521.

SUPPLEMENTARY INFORMATION: DoD 6010.8-R (Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)) was published in the **Federal Register** on July 1, 1986 (51 FR 24008). Section 702 of the National Defense Authorization Act for Fiscal Year 1991 (Pub.L.101-510) amended section 1079 (a)(8) of title 10. Based on House and Senate Committee reports, the intent of this amendment is to ensure that the relationship of certified marriage and family therapists is consistent with other mental health practitioners with comparable education and training while also protecting the CHAMPUS beneficiaries from incurring added out-of-pocket costs for care rendered that is not part of the current CHAMPUS mental health benefits package. The Committees reports indicated that the Committee felt that a consistent relationship would be achieved by deleting the statutory requirements for physician supervision and referral for certified marriage and family therapists. They felt CHAMPUS beneficiaries would be protected from incurring added out-of-pocket costs for care rendered that is not part of the current CHAMPUS mental health benefits package by requiring that certified marriage and family therapists accept CHAMPUS payment as payment in full.

To further ensure that the relationship of certified marriage and family therapists with CHAMPUS be made consistent with other mental health practitioners with comparable education and training and protect CHAMPUS beneficiaries from receiving services from unqualified providers, the Committees added to the provisions of section 702 the requirement that standards be developed for certification and credentialing of certified marriage and family therapists. The Committees directed that these standards for education and training be set at a level consistent with practitioners currently authorized as independent practitioners with CHAMPUS.

The new provisions proposed herein to implement in section 702 of Public Law 101-510 will provide for the continued CHAMPUS reimbursement of mental health counselors with physician supervision and referral, substitute the term "certified marriage and family therapists" for the previously identified "marriage and family counselor" provider group, allow certified marriage and family therapists to practice independently of physician supervision and referral, require certified marriage and family therapists to accept the CHAMPUS determined allowable charge as payment in full, except for applicable deductibles and cost-shares, and allow pastoral counselors to elect the category of provider under which to be CHAMPUS authorized, since their education and training are comparable to the certified marriage and family therapist category.

As previously indicated, the amendment requires the establishment of certification standards for providers identified as certified marriage and family therapists at a level consistent with practitioners currently authorized as independent practitioners with CHAMPUS. However, it has been the practice of the Office of CHAMPUS to prescribe standards for authorizing CHAMPUS providers that parallel the education and training requirement set by nationally recognized credentialing organizations for each type of provider. Specifically, existing standards for CHAMPUS authorization of marriage and family counselors are similar to those required for full clinical membership in the recognized credentialing organizations for this category of provider. Generally, then, the CHAMPUS education and training standards for all authorized individual providers, including certified marriage and family therapists, are already consistent and no further action to prescribe further credentials is required as a result of this legislation. Also, at this time we are clarifying our position for licensure requirements for marriage and family therapists, and pastoral and mental health counselors by eliminating language which created confusion among these professions. The requirement for licensure or certification by the state remains in effect.

The effective date of this proposed amendment is projected to be 90 days following publication of the final rule in the **Federal Register**. This will allow sufficient time for the administrative process required to implement the new requirements, and will avoid a break in the authorization status of all currently authorized marriage and family counselors who elect to continue as a CHAMPUS certified marriage and family therapists.

This proposed rule will allow the CHAMPUS beneficiary population to

receive care from certified marriage and family therapists without physician supervision and referral and will protect them from being billed for noncovered care. It is an enhancement of military benefits.

Section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) requires that each federal agency prepare and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. The Secretary certifies, pursuant to section 605(b) of title 5, United States Code, enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this proposed amendment will not have a significant impact on a substantial number of small businesses, organizations, or government jurisdictions.

We have determined that this proposed amendment is a routine amendment necessary to implement legislation which will relieve administrative requirements for the CHAMPUS beneficiary and provider community. It is not therefore, a "major rule" under Executive Order 12291.

This proposed rule ensures equitable administration of CHAMPUS requirements among providers with comparable education and training while also protecting CHAMPUS beneficiaries from incurring added costs for care not normally covered under the CHAMPUS program. It will not involve any significant burden on CHAMPUS beneficiaries or providers. This proposed amendment will eliminate the CHAMPUS administrative requirement for a certified marriage and family therapist, and those pastoral counselors choosing to become a CHAMPUS certified marriage and family therapist, to practice under physician supervision and referral. It also will allow the CHAMPUS beneficiary easier access to services provided by these categories of providers since the beneficiary will no longer be required to be referred to a certified marriage and family therapist by a physician. Increase in program costs associated with this proposed amendment is not expected to be substantial, since this amendment will eliminate administrative requirements for CHAMPUS, the beneficiary and the provider population. This proposed amendment also builds in protection for the beneficiary against financial liability should the care be found noncovered.

Additionally, this proposed rule does not impose information collection requirements. Therefore, it does not need to be reviewed by the Executive Office of Management and Budget under authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3511).

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, and Military personnel.

Accordingly, 32 CFR part 199 is proposed to be amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 10 U.S.C. 1079, 1086, and 5 U.S.C. 301.

2. Section 199.2(b) is proposed to be amended by removing the definition "Marriage and family counselor or pastoral counselor," by adding the definition "Marriage and family therapist, certified" and "Pastoral counselor" in alphabetical order and by revising the definition "Mental health counselor" to read as follows:

§ 199.2 Definitions.

* * * * *

(b) * * *

Marriage and Family Therapist, Certified. An extramedical individual provider who meets the requirements outlined in § 199.6.

* * * * *

Mental Health Counselor. An extramedical individual provider who meets the requirements outlined in § 199.6.

* * * * *

Pastoral Counselor. An extramedical individual provider who meets the requirements outlined in § 199.6.

* * * * *

3. Section 199.4 is amended by revising paragraphs (c)(3)(ix)(A), and (g)(39) to read as follows:

§ 199.4 Basic program benefits.

* * * * *

(c) * * *

(3) * * *

(ix) * * *

(A) *Covered diagnostic and therapeutic services.* Subject to the requirements and limitations stated, CHAMPUS benefits are payable for the following services when rendered in the diagnosis or treatment of a covered mental disorder by a CHAMPUS-authorized, qualified mental health provider practicing within the scope of his or her license. Qualified mental health providers are: psychiatrists or other physicians; clinical psychologists, certified psychiatric nurse specialists, clinical social workers, and certified marriage and family therapists; and pastoral and mental health counselors under a physician's supervision. No payment will be made for any service listed in paragraph (c)(3)(ix)(A) of this section rendered by an individual who does not meet the criteria of § 199.6 for his or her respective profession, regardless of whether the provider is an independent professional provider or an employee of an authorized professional or institutional provider.

* * * * *

(g) * * *

* * * * *

(39) *Counseling.* Educational counseling, nutritional counseling, vocational counseling, and counseling for socio-economic purposes. Counseling services that are not medically necessary in the treatment of a diagnosed medical condition, e.g., diabetic self-education programs, stress management, life style modification, etc. Services provided by a certified marriage and family therapist, pastoral or mental health counselor in the treatment of a mental disorder are covered only as specifically provided in § 199.6. Services provided by alcoholism rehabilitation counselors are covered only when rendered in a CHAMPUS-authorized alcohol rehabilitation facility and only when the cost of those services is included in the facility's CHAMPUS-determined allowable cost-rate.

* * * * *

4. Section 199.6 is amended by revising paragraphs (c) (1)(iv) and (3)(iv) to read as follows:

§ 199.6 Authorized providers.

* * * * *

(c) * * *

(1) * * *

(iv) *Physician referral and supervision.* Physician referral and supervision is required for the services of paramedical providers as listed in paragraph (c)(3)(iii)(H) of this section and for pastoral counselors, and mental health counselors. Physician referral means that the physician must actually see the patient, perform an evaluation, and arrive at an initial diagnostic impression prior to referring the patient. Documentation is required of the physician's examination, diagnostic impression, and referral. Physician supervision means that the physician provides overall medical management of the case. The physician does not have to be physically located on the premises of the provider to whom the referral is made. Communication back to the referring physician is an indication of medical management.

* * * * *

(3) * * *

(iv) *Extramedical individual providers.* Extramedical individual providers are those who do counseling or nonmedical therapy and whose training and therapeutic concepts are outside the medical field. The services of extramedical individual professionals are coverable following the CHAMPUS determined allowable charge methodology provided such services are otherwise authorized in this or other sections of the regulation.

(A) *Certified marriage and family therapists.* For the purposes of CHAMPUS, a certified marriage and family therapist is an individual who meets the following requirements:

(*1*) Recognized graduate professional education with the minimum of an earned master's degree from a regionally accredited educational institution in an appropriate behavioral science field, mental health discipline; and

(*2*) The following experience:

(*i*) Either 200 hours of approved supervision in the practice of marriage and family counseling, ordinarily to be completed in a 2- to 3-year period, of which at least 100 hours must be in individual supervision. This supervision will occur preferably with more than one supervisor and should include a continuous process of supervision with at least three cases; and

(*ii*) 1,000 hours of clinical experience in the practice of marriage and family counseling under approved supervision, involving at least 50 different cases; or

(*iii*) 150 hours of approved supervision in the practice of psychotherapy, ordinarily to be completed in a 2- to 3-year period, of which at least 50 hours must be individual supervision; plus at least 50 hours of approved individual supervision in the practice of marriage and family counseling, ordinarily to be completed within a period of not less than 1 nor more than 2 years; and

(*iv*) 750 hours of clinical experience in the practice of psychotherapy under approved supervision involving at least 30 cases; plus at least 250 hours of clinical practice in marriage and family counseling under approved supervision, involving at least 20 cases; and

(*3*) Is licensed or certified to practice as a marriage and family therapist by the jurisdiction where practicing (see paragraph (c)(3)(iv) of this section for more specific information regarding licensure); and

(*4*) Agrees to accept the CHAMPUS determined allowable charge as payment in full, except for applicable deductibles and cost-shares, and hold CHAMPUS beneficiaries harmless for noncovered care (i.e., may not bill a beneficiary for noncovered care, and may not balance bill a beneficiary for amounts above the allowable charge). The certified marriage and family therapist must enter into a participation agreement with the Office of CHAMPUS within which the certified marriage and family therapist agrees to all provisions specified above.

(B) *Pastoral counselors.* For the purposes of CHAMPUS a pastoral counselor is an individual who meets the following requirements:

(*1*) Recognized graduate professional education with the minimum of an earned master s degree from a regionally accredited educational institution in an appropriate behavioral science field, mental health discipline; and

(*2*) The following experience:

(*i*) Either 200 hours of approved supervision in the practice of pastoral counseling, ordinarily to be completed in a 2- to 3-year period, of which at least 100 hours must be in individual supervision. This supervision will occur preferably with more than one supervisor and should include a continuous process of supervision with at least three cases; and

(*ii*) 1,000 hours of clinical experience in the practice of pastoral counseling under approved supervision, involving at least 50 different cases; or

(*iii*) 150 hours of approved supervision in the practice of psychotherapy, ordinarily to be completed in a 2– to 3–year period, of which at least 50 hours must be individual supervision; plus at least 50 hours of approved individual supervision in the practice of pastoral counseling, ordinarily to be completed within a period of not less than 1 nor more than 2 years; and

(*iv*) 750 hours of clinical experience in the practice of psychotherapy under approved supervision involving at least 30 cases; plus at least 250 hours of clinical practice in pastoral counseling under approved supervision, involving at least 20 cases; and

(*3*) Is licensed or certified to practice as a pastoral counselor by the jurisdiction where practicing (see paragraph (c)(3)(iv) of this section for more specific information regarding licensure); and

(*4*) The services of a pastoral counselor meeting the above requirements are coverable following the CHAMPUS determined allowable charge methodology, under the following specified conditions:

(*i*) The CHAMPUS beneficiary must be referred for therapy by a physician; and

(*ii*) A physician is providing ongoing oversight and supervision of the therapy being provided; and

(*iii*) The pastoral counselor must certify on each claim for reimbursement that a written communication has been made or will be made to the referring physician of the results of the treatment. Such communication will be made at the end of the treatment, or more frequently, as required by the referring physician (refer to § 199.7).

(*5*) Because of the similarity of the requirements for licensure, certification, experience and education a pastoral counselor may elect to be authorized under CHAMPUS as a certified marriage and family therapist, and as such, be subject to all previously defined criteria for the certified marriage and family therapist category, to include acceptance of the CHAMPUS determined allowable charge as payment in full, except for applicable deductibles and cost-shares, (i.e., balance billing of a beneficiary above the allowable charge is prohibited; may not bill beneficiary for noncovered care). The pastoral counselor must also agree to enter into the same participation agreement as certified marriage and family therapist with the Office of CHAMPUS within which the pastoral counselor agrees to all provisions outlined above for certified marriage and family therapists.

Note: No dual status will be recognized by the Office of CHAMPUS. Pastoral counselors must elect to become one of the categories of extramedical CHAMPUS providers specified above. Once authorized as either a pastoral counselor, or a certified marriage and family therapist, claims review and reimbursement will be in accordance with the criteria established for the elected provider category.

(C) *Mental Health Counselor.* For the purposes of CHAMPUS, a mental health counselor is an individual who meets the following requirements:

(*1*) Minimum of a master's degree in mental health counseling or allied mental health field from a regionally accredited institution; and

(*2*) Two years of post-master's experience which includes 3000 hours of clinical work and 100 hours of face-to-face supervision; and

(*3*) Is licensed or certified to practice as a mental health counselor by the jurisdiction where practicing (see paragraph (c)(3)(iv) of this section for more specific information); and

(*4*) May only be reimbursed when:

(*i*) The CHAMPUS beneficiary is referred for therapy by a physician; and

(*ii*) A physician is providing ongoing oversight and supervision of the therapy being provided; and

(*iii*) The mental health counselor certifies on each claim for reimbursement that a written communication has been made or will be made to the referring physician of the results of the treatment. Such communication will be made at the end of the treatment, or more frequently, as required by the referring physician (refer to § 199.7).

(D) The following additional information applies to each of the above categories of extramedical individual providers:

(*1*) These providers must also be licensed or certified to practice as a certified marriage and family therapist, pastoral counselor or mental health counselor by the jurisdiction where practicing. If the jurisdiction does not provide for licensure or certification, the provider must be certified by or eligible for full clinical membership in the appropriate national professional association that sets standards for the specific profession.

(*2*) Grace period for therapists or counselors in states where licensure/certification is optional. CHAMPUS is providing a grace period for those therapists or counselors who did not obtain optional licensure/certification in their jurisdiction, not realizing it was a CHAMPUS requirement for authorization. The exemption by state law for pastoral counselors may have misled this group into thinking licensure was not required. The same situation may have occurred with the other therapist or counselor categories where licensure was either not mandated by the state or was provided under a more general category such as "professional counselors." This grace period pertains only to the licensure/certification requirement, applies only to therapists or counselors who are already approved as of October 29, 1990, and only in those areas where the licensure/certification is optional. Any therapist or counselor who is not licensed/certified in the state in which he/she is practicing by August 1, 1991, will be terminated under the provisions of § 199.9 of this part. This grace period does not change any of the other existing requirements which remain in effect. During this grace period, membership or proof of eligibility for full clinical membership in a recognized professional association is required for those therapists or counselors who are not licensed or certified by the state. The following organizations are recognized for therapists or counselors at the level indicated: full clinical member of the American Association of Marriage and Family Counselors; membership at the fellow or diplomate level of the American Association of Pastoral Counselors; and membership in the National Academy of Certified Clinical Mental Health Counselors. Acceptable proof of eligibility for membership is a letter from the appropriate certifying organization. This opportunity for delayed certification/licensure is limited to the counselor or therapist category only as the language in all of the other provider categories has been consistent and unmodified from the time each of the other provider categories were added. The grace period does not apply in those states where licensure is mandatory.

(E) *Christian Science practitioners and Christian Science nurses.* CHAMPUS cost-shares the services of Christian Science practitioners and nurses. In order to bill as such, practitioners or nurses must be listed or be eligible for listing in the Christian Science Journal at the time the service is provided.

* * * * *

Dated: November 4, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-26908 Filed 11-8-91; 8:45 am]

BILLING CODE 3810-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 80

[Docket No. 91-294, FCC 91-313]

Use of Synthesized Voice for Distress Communications on VHF Marine Channel 16

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to authorize and provide standards for the use of synthesized voice messages on VHF marine channel 16 to send distress transmissions. Such a proposal would permit marine electronics equipment manufacturers to incorporate synthesized voice as an integral part of a VHF transmitter or as ancillary equipment to existing VHF marine transmitters.

DATES: Comment Date: December 16, 1991. Reply Comment Date: January 2, 1992.

ADDRESSES: Comments may be mailed to the Federal Communications Commission, Office of the Secretary, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Susan Jones, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, Docket No. 91-294, FCC 91-313, Adopted October 2, 1991, and Released October 24, 1991. The full text of the Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1114 21st Street, NW., Washington, DC 20036.

Summary of Notice of Proposed Rule Making

This action arose out of a Request for a Declaratory Ruling filed by Mr. Robert Tendler, asking the Private Radio Bureau to interpret part 80 of the Rules as already permitting the use of synthesized voice for distress communications on VHF marine channel 16. Comments filed by the Radio Technical Commission for Maritime Services (RTCM), responding to public notice of Mr. Tendler's Request, objected to the issuance of a declaratory ruling in this instance because such an interpretation of the Commission's Rules could result in significant changes to radio operating procedures, particularly those that relate to distress and safety communications. Because any change in rules that has the potential of affecting safety of life at sea should be adopted only after adequate opportunity for public review and comment, we denied Mr. Tendler's request.

This Notice, therefore, proposes to permit the optional use of external and internal devices to generate synthesized voice on VHF marine channel 16. It is further proposed that these devices may not exceed the existing technical standards such as emission and bandwidth limitations for VHF ship transmitters. Limits are proposed as to the number of repetitions, length, and content of the message. We request specific comments on the merits of this proposal.

Ordering Clause

Authority for this action is contained in section 154(i) and 303(f) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(f). For the reasons set out in the Preamble, title 47, chapter I of the Code of Federal Regulations is proposed to be amended as follows.

List of Subjects in 47 CFR Part 80

Marine safety, Radio.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-27078 Filed 11-8-91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 14

RIN 1018-AB55

Conferring Designated Port Status on Baltimore, MD

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service proposes to confer designated port status on Baltimore, Maryland pursuant to section 9(f) of the Endangered Species Act of 1973. Designated port status would allow the direct importation and exportation of fish and wildlife, including parts and products, through Baltimore, Maryland, a growing international port. Under this proposed rule, 50 CFR 14.12 would be amended to add Baltimore, Maryland to the list of Customs ports of entry designated for the importation and exportation of wildlife. A public hearing on this proposal will be held on December 10, 1991, in Baltimore, Maryland.

DATES: Comments must be submitted on or before December 12, 1991.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Director, U.S. Fish and Wildlife Service, P.O. Box 3247, Arlington, Virginia 22203-3247. Comments and materials may be hand-delivered to the U.S. Fish and Wildlife Service, Division of Law Enforcement, 4401 N. Fairfax Drive, room 500, Arlington, Virginia, between the hours of 8 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Special Agent Jerome S. Smith at the above address ((703) 358-1949), or Special Agent Albert Eugene Hester, Assistant Regional Director, U.S. Fish and Wildlife Service, P.O. Box 129, New Town Branch, Boston, Massachusetts 02258, ((617) 965-2298 or FTS 829-9254).

SUPPLEMENTARY INFORMATION:

Background

Designated ports are the cornerstones of the process by which the Fish and Wildlife Service regulates the importation and exportation of wildlife in the United States. With limited exceptions, all fish or wildlife must be imported and exported through such ports as required by section 9(f) of the Endangered Species Act of 1973, 16 U.S.C. 1538(f). The Secretary of the Interior is responsible for designating these ports by regulation, with the approval of the Secretary of the Treasury after notice and the opportunity for public hearing.

On January 4, 1974, the Service promulgated final rules designating eight Customs ports of entry for the importation and exportation of wildlife (39 FR 1158). A ninth port was added on September 1, 1981, when final rules were published naming Dallas/Fort Worth, Texas a designated port (46 FR 43834). A tenth port was added on March 15, 1990, when final rules were published naming Portland, Oregon a designated port (55 FR 9730).

Need for Proposed Rulemaking

Containerized air and ocean cargo has become the paramount means by which both live wildlife and wildlife products are transported into and out of the United States. The use of containerized cargo by the airline and shipping industries has compounded the problems encountered by the Service and by wildlife importers and exporters in the Baltimore area. In many instances, foreign suppliers will containerize entire shipments and route them directly to Baltimore. If, upon arrival, the shipment contains any wildlife, those items must be shipped under Customs bond to a designated port for clearance. In most cases, this has involved shipping wildlife products to New York, New York, the nearest designated port, but reshipment has been both time consuming and expensive. To alleviate this problem, Baltimore area importers and exporters have attempted to direct entire shipments, even though they contain only a small number of wildlife items, to a designated port prior to their arrival at Baltimore. This method of shipment meets the current regulatory requirements of the Service; however, it is again time consuming and entails additional expense. It is also contrary to the increasing tendency of foreign suppliers to ship consignments directly to regional ports such as Baltimore. In addition, time is a key element when transporting live wildlife and perishable wildlife products. Without designated port status, businesses in Baltimore cannot import and export wildlife products directly, and consequently may be unable to compete economically with merchants in other international trading centers located in designated ports.

With airborne and maritime shipments into and out of Baltimore steadily increasing, the Service has concluded that the port should be designated for wildlife imports and exports. Conferring this status on Baltimore would serve not only the interests of businesses in the region, but would also facilitate the mission of the Service.

Notice of Public Hearing

Section 9(f) of the Endangered Species Act of 1973, 16 U.S.C. 1538(f)(1), requires that the public be given an opportunity to comment at a public hearing prior to the Secretary of the Interior conferring designated port status on any port.

Accordingly, the Service has scheduled a public hearing for December 10, 1991, from 8 a.m. to 12 Noon. The hearing will be held in room 104, U.S. Customs House, 40 South Gay Street, Baltimore, Maryland 21202. All interested persons wishing to present oral or written testimony at this hearing must advise the Service in writing by December 12, 1991. All such requests must be submitted in writing to: Assistant Regional Director, U.S. Fish and Wildlife Service, P.O. Box 129, New Town Branch, Boston, Massachusetts 02258 ((617) 965-2298 or FTS 829-9254). Two (2) copies of the testimony should be submitted with each request.

Note: The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this proposed rule will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The only effect of this rule will be to make it easier for businesses to import and export wildlife directly through Baltimore, Maryland. This proposed rule does not contain any information collection requirements which require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* These proposed changes in the regulations in part 14 are regulatory and enforcement actions which are covered by a categorical exclusion from National Environmental Policy Act procedures under 516 DM 6, appendix 1, §§ 1.4(A)(1) and 1.5.

Author

The primary author of this proposed rule is Special Agent Jerome S. Smith, Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, DC.

List of Subjects in 50 CFR Part 14

Exports, Fish, Imports, Labeling, Reporting and recordkeeping requirements, Transportation, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, Title 50, Chapter I, Subchapter B of the Code of Federal Regulations is proposed to be amended as set forth below.

PART 14—IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

1. The authority citation for part 14 continues to read as follows:

Authority: 16 U.S.C. 42; 16 U.S.C. 3371–3378; 16 U.S.C. 1538(d)–(f), 1540(f); 16 U.S.C. 1382; 16 U.S.C. 704, 712; 31 U.S.C. 483(a); 16 U.S.C. 4223–4244.

§ 14.12 [Amended]

2. Section 14.12(i) is amended by removing the word "and".

3. Section 14.12(j) is amended by removing the period and adding the word "and" preceded by a semicolon.

4. Section 14.12 is amended by adding the following new paragraph (k):

§ 14.12 Designated ports.

* * * * *

(k) Baltimore, Maryland.

Dated: September 10, 1991.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 91–27092 Filed 11–8–91; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

RIN 1018–AB32

Endangered and Threatened Wildlife and Plants; Proposed Determination of Critical Habitat for the Northern Spotted Owl; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Revised proposed rule; correction.

SUMMARY: Fish and Wildlife Service is making corrections to the revised proposed rule for determination of critical habitat for the northern spotted owl that appeared in the **Federal Register** on August 13, 1991 (56 FR 40001).

FOR FURTHER INFORMATION CONTACT: Mr. Dale Hall, Assistant Regional Director for Fish and Wildlife Enhancement, 911 Northeast 11th Avenue, Portland, Oregon 97232 (503/231–6159 or FTS 429–6159).

SUPPLEMENTARY INFORMATION: The Fish and Wildlife Service (Service) originally proposed designation of critical habitat for the northern spotted owl (*Strix occidentalis caurina*) on May 6, 1991 (56 FR 20815). The Service revised its proposed designation of critical habitat for the northern spotted owl on August 13, 1991 (56 FR 40001). The revised proposed rule contained errors that are discussed briefly below and are corrected by this notice.

Dated: November 4, 1991.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

The following corrections are made in the revised proposed rule for determination of critical habitat for the northern spotted owl published in the **Federal Register** on August 13, 1991 (56 FR 40001).

On page 40035, in the second column, lines 1 through 5 are revised to read as follows:

U.S. Fish and Wildlife Service. 1991a. Summary of Information on Northern Spotted Owls and Spotted Owl Habitat for the Proposal to Designate Critical Habitat. U.S. Fish and Wildlife Service, Portland, Oregon.

2. On page 40035, in the second column, lines 21 through 24 are revised to read as follows:

U.S. Fish and Wildlife Service. 1991e. Report on the Process for Determining Spotted Owl Critical Habitat Exclusions. U.S. Fish and Wildlife Service, Fort Collins, Colorado.

[FR Doc. 91–27069 Filed 11–8–91; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

RIN 1018–AB73

Endangered and Threatened Wildlife and Plants; Proposed Rule to Determine Three Vernal Pool Plants, Pogogyne nudiuscula, Orcuttia californica, and Eryngium aristulatum var. parishii, and the Riverside Fairy Shrimp to be Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to determine *Pogogyne nudiuscula* (Otay Mesa mint), *Orcuttia californica* (California Orcutt grass), *Eryngium aristulatum* var. *parishii* (San Diego button-celery), and the Riverside fairy shrimp *Streptocephalus woottoni* to be endangered species pursuant to the Endangered Species Act of 1973, as amended (Act). These species occur in vernal pools of southwestern Riverside County and western San Diego County, California. Habitat loss and degradation due to urban and agricultural development livestock grazing, off-road vehicle use, and invasion from weedy exotic plants threaten the continued existence of these species. This proposal, if made final, would implement the protection and recovery provisions afforded by the Act for these four species. Comments and materials related to this proposal are solicited.

DATES: Comments from all interested parties must be received by January 13, 1992. Public hearing requests must be received by December 27, 1991.

ADDRESSES: Comments and materials concerning this proposed rule should be sent to Office Supervisor, U.S. Fish and Wildlife Service, Laguna Niguel Field Station, 24000 Avila Road, Laguna Niguel, California 92656. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Harper, Office Supervisor, at the above address or at (714) 643–4270 or FTS 796–4270.

SUPPLEMENTARY INFORMATION:

Background

Pogogyne nudiuscula Gray is an erect annual reaching 12 inches (in) (3 decimeters (dm)) in height. The bright green spatulate leaves have few hairs. Bright purple flowers occur in whorls on spikes. This aromatic plant is a member of the mint family (Lamiaceae), typically blooming from May through June (Munz 1974). The lack of hairs on the calyx and bracts of this plant differentiates the species from *P. abramsii*. *Pogogyne nudiuscula* was originally described by Gray (1876), as cited by Howell (1931).

Orcuttia californica Vasey is a member of the grass family (Poaceae). This small annual grass reaches 4 in (1 dm) in height, is bright green, and secretes sticky droplets that taste bitter. Inflorescences, borne from May through June, consist of seven spikelets arranged in two ranks, with the upper spikelets overlapping on a somewhat twisted axis. *Orcuttia californica* was first collected by Orcutt and was described by Vasey (1886). Subsequently, this plant was considered the nominant variety of *Orcuttia californica*, and several varieties were recognized. Reeder (1982) raised the varieties of *Orcuttia californica* to species status. *Orcuttia californica* is differentiated from other species in the genus by the following characteristics: teeth of lemma (bract enclosing the floret) 5 millimeters (mm) or less long, the teeth sharp-pointed or with awns (terminal bristles) 0.5 mm or less long; culms (stems)

usually prostrate; caryopsis (fruit) 1.5-1.8 mm long; plants sparingly pilose (bearing soft and straight spreading hairs); and spikelets remote on the axis below, crowded toward the apex.

Eryngium aristulatum Jepson var. *parishii* (Coulter and Rose) Mathias and Constance is a member of the parsley family (Apiaceae). This plant is usually an annual, however, under favorable conditions it facultatively becomes a perennial herb with a perennial tap root. The plant has a spreading or ascending shape and reaches a height of 16 in (4 dm). The stems and lanceolate leaves are gray green with spinose lobes giving the plant a prickly appearance. Inflorescences form on short stalks with few flowered greenish heads at the ends of branches. *Eryngium aristulatum* var. *parishii* blooms from May through June (Constance 1977). This plant was originally described as *Eryngium parishii* by Coulter and Rose (1900). The plant was reclassified by Jepson (1923) as *E. jepsonii* var. *parishii*. Jepson (1936) returned to the Coulter and Rose (1900) classification. Mathias and Constance (1941) separated *Eryngium aristulatum* from *Eryngium jepsoni* due to morphological characteristics and treated this plant as a variety of *Eryngium aristulatum* (var. *parishii*). Its greenish heads, fruits with unequal scales, and bractlets without calloused margins separate *E. aristulatum* var. *parishii* from other varieties.

The Riverside fairy shrimp (*Streptocephalus woottoni*) is a small freshwater crustacean of the Order Anostraca, Family Streptocephalidae. Mature males are between 0.56 in (14 mm) and 0.92 in (23 mm) in length. The frontal appendage is cylindrical, bilobed at the tip, and extends only part way to the distal end of the basal segment of the antenna. The spur of the thumb is a simple bladelike process. The finger has two teeth; the proximal tooth is shorter than the distal tooth. The distal tooth has a lateral shoulder that is equal to about half the tooth's total length measured along the proximal edge. The cercopods are separate with plumose setae along the medial and lateral borders. Mature females are between 0.56 in (14 mm) and 0.84 in (21 mm) in total length. The brood pouch extends to abdominal segments 7, 8, or 9. The cercopods are as in the male. The discoverers of this taxon described this animal in the Journal of Crustacean Biology as a new species. They propose to name it *Streptocephalus woottoni* (Eng *et al.* 1990).

The Riverside fairy shrimp was first collected in 1979 by Dr. Clyde Eriksen and was identified as a new species in 1985 (Eng *et al.* 1990). The described species most similar to *Streptocephalus woottoni* is *S. seali* Ryder 1879. Plumose setae edge the cercopods of mature male *S. woottoni*, whereas spines replace the setae on the distal half of the cercopods in mature *S. seali*. The last abdominal segment is short in both species; however, *S. woottoni* lacks the confluent inner margins of the cercopods characteristic for male *S. seali* and *S. similis* Baird 1852. Both living males and females of *S. woottoni* have the red color of the cercopods covering all of the ninth and 30-40 percent of the eighth abdominal segments; no red extends onto the abdominal segments in living *S. seali* of either sex.

The three plants and the fairy shrimp occur in vernal pools, a habitat that forms in areas with Mediterranean climates where slight depressions become seasonally wet or inundated following fall and winter rains. Water remains in these pools for a few months at a time, due to an impervious layer such as hard pan, clay, or basalt beneath the soil surface. Gradual drying occurs during the spring (Holland 1976). The pools form on mesa tops or valley floors and are surrounded by very low hills usually referred to as mima mounds (Zedler 1987).

Historically, *Pogogyne nudiuscula* was known from Otay Mesa of San Diego County (Bauder 1986) to immediately south of the Mexican border in Baja California (Moran 1981); the species may have extended to the mesas east of Balboa Park and South of Mission Valley in San Diego where vernal pools contain *P. abramsii*, another endangered vernal pool plant (Bauder 1986). The sites in northern Baja California have very likely been extirpated (Moran 1981). The current known distribution of *P. nudiuscula* is restricted to some of the remaining vernal pools on Otay Mesa.

Orcuttia californica once occurred in vernal pools from San Quintin, Baja California, Mexico, (Moran 1981) northward to Riverside, Los Angeles, and San Diego Counties in southern California. Historically known populations from near Downey and Lakewood in Los Angeles County and near Murietta Hot Springs in Riverside County have been extirpated. *Orcuttia californica* remains in the pools on The Nature Conservancy's Santa Rosa Plateau Preserve, and in the Skunk Hollow pool in Riverside County (Lathrop 1976), and in pools on Otay Mesa in San Diego County (Bauder 1986). The current status of *O. californica* in Baja California is unknown, although agricultural development in areas and under conditions where vernal pool habitat is typically found seems to be widespread and increasing (Moran 1981).

Eryngium aristulatum var. *parishii* once occurred from Riverside County, California, south to northern Baja California, Mexico (Constance 1977). This species currently is known to remain on the Santa Rosa Plateau in Riverside County; on Otay, Kearny, Del Mar, and Mira Mesas; on Camp Pendleton in San Diego County; and in northern Baja California, Mexico. A number of sites have been eliminated in recent years. Although this species remains comparatively widespread within and adjacent to remaining vernal pools, vernal pool habitat has declined by 97 percent (T. Oberbauer, Senior Planner, San Diego County, pers. comm., 1990), and most of the remaining pools face one or more threats. Additionally, the distribution of *E. aristulatum* var. *parishii* is patchy, which makes it more vulnerable to local extinction than more evenly distributed species (Bauder 1986).

The Riverside fairy shrimp has a restricted distribution and is known from five vernal pools in a 8.1 by 4.3 mile (13 by 7 kilometer (km) area near Temecula in southwestern Riverside County (Eng *et al.* 1990). In the fall of 1989, this species was found within vernal pools on the Miramar Naval Air Station and Otay Mesa in San Diego County (Simovich 1989).

The conditions that create suitable habitat for these species are seasonal (vernal) pools of shallow freshwater and were probably never common. However, agricultural and, more recently, urban development have eliminated the majority of suitable habitat. Urban and agricultural development currently threaten four of the five remaining pools supporting the fairy shrimp in Riverside.

A number of studies have been conducted on vernal pools in San Diego County. For mapping and description purposes, a standardized system has been developed for the designation of these vernal pools. A series letter is used to denote vernal pools in a general region, and numbers are used to designate several pool groups within the series. *Pogogyne nudiuscula* and *Orcuttia californica* are both found in the pools of the "J" series on Otay Mesa. These two species are not known to occur in the same pool. *Eryngium aristulatum* var. *parishii* occurs in several pool series. The Riverside fairy shrimp is known to occur within two pool series (J and U) in San Diego. The "U" series occurs on Miramar Naval Air Station.

Previous Federal Action

Federal action on the plant species began when the Secretary of the Smithsonian Institution, as directed by section 12 of the Endangered Species Act of 1973, prepared a report on those native plants considered to be endangered, threatened, or extinct in the United States. This report (House Document No. 94–51) was presented to Congress on January 9, 1975, and included *Pogogyne nudiuscula* and *Orcuttia californica*, but not *Eryngium aristulatum* var. *parishii*. On July 1, 1975, the Service published a notice accepting the report as a petition under section 4(c)(2) of the Act (40 FR 27823), and gave notice of the status review of *P. nudiuscula* and *O. californica* (petition acceptance is now governed by section 4(b)(3)(A)). On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plants species, including *O. californica* and *E. aristulatum* var. *parishii*, but not *P. nudiuscula*, to be endangered species pursuant to section 4 of the Act. This list was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. A summary of general comments received by the Service on the 1976 proposal was published in the **Federal Register** on April 26, 1978 (43 FR 17909).

In 1978, the amendments to the Act required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already more than 2 years old. On December 10, 1979, the Service published in the **Federal Register** a notice withdrawing the portion of the June 16, 1976, proposal that had not been made final, including *Orcuttia californica* and *Eryngium aristulatum* var. *parishii*.

The Service published an updated notice of review for plants on December 15, 1980 (45 FR 82480). This notice included *Eryngium aristulatum* var. *parishii*, *Orcuttia californica*, and *Pogogyne nudiuscula* as category 1 candidates (species for which the Service has sufficient data in its possession to support a Federal listing proposal as endangered or threatened). On February 15, 1983, the Service published a notice (48 FR 6752) of its prior finding that the listing of these species may be warranted in accordance with section 4(b)(3)(A) of the Act. On October 13, 1983, the Service found that listing of these plant species was warranted but precluded in accordance with section 4(b)(3)(iii) of the Act. Notification of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled pursuant to section 4(b)(3)(C)(i) of the Act. The finding was reviewed in October of 1984, 1985, 1986, 1987, 1988, 1989, 1990, and 1991. The present proposal constitutes the final finding on the petitioned action in accordance with section 4(b)(3)(B)(ii) of the Act.

The San Gorgonio Chapter of the Sierra Club submitted a petition dated September 19, 1988, to list the Riverside fairy shrimp as endangered. The petitioner opined that emergency listing was appropriate. The Service has determined that emergency listing is not appropriate in this case because the species is more widespread than first thought and does occur in at least one protected site. Considerable data were submitted with, and subsequent to, the petition. Additional data on new locations for this species were submitted to the Service by Dr. Marie Simovich.

Because it was not identified until 1985, and its existence remained known only to a few scientists until 1988, this proposed rule constitutes the first Federal action on the Riverside fairy shrimp.

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1533) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Orcuttia californica* Vasey (California Orcutt grass), *Pogogyne nudiuscula* Gray (Otay Mesa mint), *Eryngium aristulatum* var. *parishii* (Coulter and Rose) Mathias and Constance (San Diego button-celery), and the Riverside fairy shrimp (*Streptocephalus woottoni*) are as follows:

A. The Present or Threatened Destruction, Modification or Curtailment of Its Habitat or Range

The habitat and range of these four species has been greatly reduced. Vernal pools, existing as slight depressions on flat mesas, are found in locations that are especially vulnerable to urban and agricultural development. Many pool groups have been entirely eliminated and replaced with urban or agricultural developments.

In 1979, *Pogogyne nudiuscula* was limited to 10 pool groups on Otay Mesa containing some 170 individual vernal pools. By 1986, this species had been extirpated from 3 pool groups encompassing about 38 pools. The plant was limited to a single pool in two groups and noticeably declining in another group. Vehicular activity was occurring in two of the remaining groups and partially explained one of the extirpations. Excessive cover of weedy non-native grasses was noted in six of the pool groups and partially explained two extirpations. Only one pool group was described as having dense populations of this plant. This particular site is near a proposed correctional facility (Bauder 1986). *Pogogyne nudiuscula* is presently known to remain in only four vernal pool complexes, all on Otay Mesa. In the drought year of 1989, *P. nudiuscula* was only found within one pool complex made up to 30 pools with a pool surface area totaling less than 1 acre (Bauder, Dept. of Biology, San Diego State University, pers. comm.).

In 1979, *Orcuttia californica* occurred on Otay Mesa in 7 pool groups containing 34 vernal pools. By 1986, plowing had destroyed 11 of these vernal pools. The invasion of alien plants and livestock grazing (see discussion below under Factor E) explained the extirpation of *O. californica* from 13 pools. *Orcuttia californica* presently occurs in only 2 vernal pool complexes on Otay Mesa that contain 10 vernal pools. All of the remaining 10 pools supporting *O. californica* on Otay Mesa were grazed by livestock, and 5 were adversely affected by trampling associated with Mexican citizens attempting to enter the United States from adjacent Mexico (less than 5 miles away) (Bauder 1986). Two vernal pool complexes in southwestern Riverside County also contain this species. One of these complexes is partially preserved within The Nature Conservancy's Santa Rosa Plateau Reserve. The other complex is located within the 14 acre Skunk Hollow pool, the last remaining valley type vernal pool in Riverside County. This pool is often plowed and is within the general locale of a conditionally approved residential development. The actual pool and some portion of its watershed are currently being studied for development of a conservation plan, as required by Riverside County. The purpose of the study is to determine the amount of supporting watershed to be included in the reserved area; it does not actually offer permanent protection to Skunk Hollow's watershed.

The Service is aware of 37 separate proposed Precise Plans and Tentative

Maps that have been filed for Otay Mesa, as required by the California Environmental Quality Act. These plans encompass approximately 80 percent of the undeveloped portion of the mesa within the jurisdiction of the City of San Diego and virtually all but four of the remaining vernal pool complexes. Of the four remaining pool complexes, three are adversely affected by other activities or development proposals. Preliminary designs by the California Department of Transportation for State Route 125 include alignments that sever the existing natural connection between two of the largest remaining vernal pool complexes on Otay Mesa. The construction of this new major highway access route into Otay Mesa would further facilitate its development. The Immigration Service has recently proposed a Border Control project (the Big Ditch) that would result in indirect and direct adverse impacts to vernal pools. The existing Brown Field Airport is presently being evaluated as a potential site for an International Airport servicing San Diego. This proposal includes alternative runway alignments that would destroy portions of one of the two largest remaining vernal pool complexes.

Eryngium aristulatum var. *parishii* has the largest remaining distribution of the three plant species under consideration herein. In 1979, this species was known from 66 pool groups; by 1986 this plant remained in 61 pool groups. Although three sites receive some protection, the remaining pool groups are threatened by one or more of the following: urban development, off-road vehicular traffic, trash dumping, grazing, mowing or plowing, highway construction, invasion by weedy exotics, drainage or watershed alterations (often due to adjacent urban development), military activities, and trampling associated with illegal aliens entering the United States (Bauder 1986).

The Riverside fairy shrimp is also vulnerable to any land use changes affecting the pools where it is found. This species inhabits the Skunk Hollow vernal pool, which, as previously discussed, is within a planned development. Other sites supporting the fairy shrimp may lack some of the typical vegetation of vernal pools, but that condition probably reflects impacts from past agricultural activities. One pool is located within an approved tract map for a housing development. A third pool is on a parcel currently the subject of a Specific Plan (housing development) proposal. This pool is in an agricultural field near the Skunk Hollow pool and has been recently disced; the Environmental Impact Report prepared for the Specific Plan failed to acknowledge the existence of the species on the site. However, representatives of the landowner have expressed a willingness to offer some protection for this site. A fourth pool is located partially on private land and partially on the Pechanga Indian Reservation. The portion on private land was cultivated during 1990. The Region's drought conditions over the last 2 to 3 years may have rendered the pool dry enough to be plowed. A fifth pool, within a mile of the fourth site, is located on the Pechanga Indian Reservation. Bureau of Indian Affairs staff have indicated that they can do nothing to protect these pools because they are on land belonging to individual Tribe members. The section 7 requirements of the Act would apply to these pools if the fairy shrimp were listed as endangered (see discussion below under Available Conservation Measures). The plant species found in these locations are typical of areas that have been disturbed, although evidence of recent agricultural activity is lacking. Of the five pools supporting the fairy shrimp in Riverside County, only the Skunk Hollow vernal pool is greater than 1 acre in size.

Pools also have been degraded due to the use of off-road vehicles. These vehicles compact soils, crush plants when water is in the pools, cause turbidity, and leave deep ruts. The damage may alter the microhydrology of the pools. Dirt roads that go through or adjacent to pools are widened as motorists try to avoid the inevitable mud puddles. Thus, pools are gradually destroyed by vehicles traveling on adjacent dirt roads. Vehicle access and damage has occurred on virtually all remaining vernal pool complexes.

Livestock grazing occurs on Otay Mesa in areas where several vernal pool complexes collectively contain all four of the species. Plants within pools may be trampled and killed, or grazed by livestock prior to setting of seed. *Eryngium aristulatum* var. *parishii* is sometimes able to withstand light grazing pressure because of the buffering effect of its perennial tap root.

Trash dumping also degrades vernal pools. Chunks of concrete, tires, refrigerators, sofas, and other pieces of garbage or debris have been found in pools containing these four species. This trash crushes or shades vernal pool plants, disrupts the hydrologic functions of the pool, and in some cases may release toxic substances.

The vernal pool habitat upon which these four species depend is also vulnerable to indirect destruction due to an alteration of the supporting watershed. An increase in water due to urban run-off leads to increased inundation and makes the pools vulnerable to invasion by marsh species resulting in decreased abundance of obligate vernal pool taxa. At the other extreme, some pools have been drained or blocked from their source of water and have shown an increased domination by upland plant species. *Orcuttia californica* usually occurs in the deepest portion of vernal pools and occurs in some pools with marshy elements. Hence, it is more likely to be adversely affected by the latter type of drainage alteration. Adjacent developments are often responsible for these drainage alterations.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Overutilization is not known to be a factor for the three plants, but unrestricted collecting for scientific or horticultural purposes or excessive visits by individuals interested in seeing rare plants could result from increased publicity. Taking of the Riverside fairy shrimp for these purposes has not been documented.

C. Disease or Predation

Orcutta californica is consumed by cattle in areas where vernal pools are within pastures. The other three species are not known to be affected by disease or predation.

D. The Inadequacy of Existing Regulatory Mechanisms

Existing regulatory mechanisms are not sufficient to reduce the losses of *Orcuttia californica, Pogogyne nudiuscula, Eryngium aristulatum* var. *parishii*, and the Riverside fairy shrimp. Vernal pools, as isolated wetlands and waters of the United States, are regulated by the U.S. Army Corps of Engineers (Corps) under section 404 of the Clean Water Act. The Corps generally does not require individual permits for impacts on less than one acre of wetlands or isolated waters of the United States above the headwaters. Most individual vernal pools are less than one acre in size and fall under nationwide permit. Thus, for most pools, section 404 of the Clean Water Act has not historically provided adequate protection to these species from grading or fill activities. However, in October 1987, the Corps released a Public Notice proposing to exercise their discretionary authority and exert jurisdiction over vernal pools regardless of size or the

lack of sensitive or endangered species in the pools. Informally the Corps has been requiring permits for the discharge of fill into vernal pools. However, they have yet to officially require notification to the Corps Regulatory Branch of proposals to discharge fill material into vernal pools.

Section 404 regulates the discharge of fill material, but it does not regulate other activities such as grazing, off-road vehicle activity, and seeding with non-native species. Moreover, section 404 of the Clean Water Act does not regulate activities within the watershed (i.e., adjacent upland) of vernal pools. The watershed is an essential component of the vernal pool ecosystem. The disturbance and/or loss of watershed can result in greatly reduced amount and duration of water in the vernal pool and thereby adversely affect all four of the proposed species.

Pools containing the federally listed *Pogogyne abramsii* have been subject to individual permit actions under section 404 of the Clean Water Act because of the presence of an endangered species. In the past, *P. nudiuscula* may have occurred in the same pools as *P. abramsii*, east of Balboa Park and south of Mission Valley in San Diego; however, these pools have been lost (Bauder 1986). *Orcuttia californica* and *P. abramsii* are not sympatric. Thus, the listing of *P. abramsii* has not reduced the degree of threat to *P. nudiuscula* and *O. californica*.

Pogogyne nudiuscula, *Orcuttia californica*, and *Eryngium aristulatum* var. *parishii* are listed as endangered by the California Fish and Game Commission (State). Listing by the State requires that individuals who wish to possess listed species obtain a memorandum of understanding from the California Department of Fish and Game (Department). Under the California Endangered Species Act of 1985, State lead agencies are required to consult with the Department when their projects would affect State listed species. Few State projects are anticipated that would affect *P. nudiuscula*, *O. californica*, *E. aristulatum* var. *parishii*, and the Riverside fairy shrimp. The prohibition against possession does not reduce the degree of threat resulting from adverse modification of vernal pool habitat incidental to other activities such as grading.

No formal programs currently exist to protect the Riverside fairy shrimp. In response to concerns expressed by conservation organizations, the California Department of Fish and Game, and the Fish and Wildlife Service, the County of Riverside has conditioned one Specific Plan to set one pool aside as an area for further study to provide temporary protection for the Riverside fairy shrimp; the remainder of the large residential project was approved. The County Planning Director indicated that the County would attempt to prevent grading on another site where an approved tract would eliminate one pool. This site, however, was recently cleared. No Federal or State laws protect the Riverside fairy shrimp, and minimal protection given to the species has been the result of local planning decisions.

In 1980, the City of San Diego instituted a vernal pool preservation program wherein developers pay a fee to a preservation fund when a project would destroy vernal pools. The amount of the fee required, $4,000.00 per vernal acre (usually only a small fraction of a typical acre of land containing vernal pools), is not sufficient to replace the lost habitat that, in some cases, sells far in excess of $100,000 per acre. The City of San Diego has accumulated approximately $700,000 (from collections and interest) through this program for the loss of over 600 pools. The City of San Diego has purchased one 9 acre site containing several vernal pools utilizing $450,000 of the mitigation fund.

During 1986, a study of vernal pools revealed that little protection has been afforded vernal pools even though several jurisdictions may apply. Recorded vernal pool losses since 1979 indicated that 79 percent of pools covered under the City of San Diego's plan and the California Environmental Quality Act have been lost. Those pool groups where permits pursuant to section 404 of the Clean Water Act were required have shown a 26 percent loss. Eight percent of the pools on federally-owned lands have been lost (Bauder 1986).

E. Other Natural or Manmade Factors Affecting Their Continued Existence.

Many vernal pools on Otay Mesa have become dominated by alien plants such as the common grass *Lolium perenne*. This species is tolerant of inundation and crowds out the native vernal pool species such as *Pogogyne nudiuscula*, *Orcuttia californica*, and *Eryngium aristulatum* var. *parishii*. Ranchers have introduced exotic species into some areas to increase the amount of forage available to livestock.

Pogogyne nudiuscula remains on a few sites on Otay Mesa in San Diego County. *Orcuttia californica* also is restricted to a few sites on Otay Mesa and on the Santa Rose Plateau. Unpredictable natural events such as drought would be more devastating to these species due to their fragmented and restricted range. The geographically restricted range and distribution of these species increases the possibility that ordinary agricultural activity or development in these rapidly growing areas could destroy a significant portion of the species' remaining population and habitat.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to propose this rule. Based upon this evaluation, the preferred action is to list *Pogogyne nudiuscula*, *Orcuttia californica*, *Eryngium aristulatum* var. *parishii*, and the Riverside fairy shrimp as endangered. These species are California endemics with very specific habitat requirements. Endangered status is proposed because urban development, agricultural land conversion, and other factors have destroyed 97 percent of the habitat that was once available in the San Diego area. For the reasons discussed below the Service is not proposing to designate critical habitat for these species.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat concurrently with determining a species to be endangered or threatened. The Service finds that designation of critical habitat for these three plant species and the Riverside fairy shrimp is not prudent at this time. As discussed under Factor A in the "Summary of Factors Affecting the Species," these plant species are vulnerable to trampling. Curiosity seekers may investigate vernal pools and inadvertently further degrade the habitat of these three plants and the Riverside fairy shrimp by trampling. Publication of precise maps and descriptions of critical habitat for the three plants would increase the degree of threat to these plants from take or vandalism and, therefore, could contribute to their decline and increase enforcement problems. The listing of the plants as endangered publicizes their rarity and, thus, can make these plants more attractive to researchers, curiosity seekers, or collectors of rare plants. All involved parties and landowners will be notified of the general location and importance of protecting the habitat of these species. Protection of the habitat of these species will be addressed through the recovery process and through the section 7 consultation process. Therefore, the Service finds that it would not be prudent to

determine critical habitat for *Pogogyne nudiuscula, Orcuttia californica, Eryngium aristulatum* var. *parishii,* and the Riverside fairy shrimp at this time, because such designation would increase the degree of threat from vandalism, collecting, or other human activities and because it is unlikely to aid in the conservation of these species.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated following listing. The protection required of Federal agencies, the prohibitions against taking and harm of the Riverside fairy shrimp, and certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being proposed. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal agencies expected to have involvement with these species include the U.S. Army Corps of Engineers and the Environmental Protection Agency due to their permit authority under section 404 of the Clean Water Act. Federal Aviation Administration jurisdiction would apply to vernal pools near Montgomery Field within the City limits of San Diego and at Brown Air Field on Otay Mesa. Miramar Naval Air Station contains vernal pools with not only the three plant species but also *Pogogyne abramsii* which is presently listed as endangered. Camp Pendleton contains some vernal pools and is owned by the U.S. Marine Corps. The Veterans Administration will be required to consider the consequences of funding housing loans where these species or their habitat occur. The Immigration and Naturalization Service will need to evaluate its activities and its effects on these species. This agency may be able to offer some help where trampling associated with Mexican citizens entering the United States is occurring. The Federal Highway Administration will likely be involved through potential funding of a portion of future highway construction that could affect these species. The Bureau of Indian Affairs may need to evaluate future proposals that may affect the Riverside fairy shrimp.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general prohibitions and exceptions that apply to all endangered plants. With respect to the three plants proposed herein, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, make it illegal with respect to any endangered plant for any person subject to the jurisdiction of the United States to import or export; transport in interstate or foreign commerce in the course of a commercial activity; sell or offer for sale in interstate or foreign commerce; remove and reduce to possession any such species from areas under Federal jurisdiction; maliciously damage or destroy any such species on any area under Federal jurisdiction; or remove, cut, dig up, damage, or destroy any such species on any other area in knowing violation of any State law or regulation or in the course of any violation of a State criminal trespass law. Certain exceptions can apply to agents of the Service and State conservation agencies.

The Act and implementing regulations found at 50 CFR 17.21 for endangered species set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or to attempt any of these), import or export, transport in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed wildlife. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plants under certain circumstances. It is anticipated that few trade permits would ever be sought or issued for the three plant species since these species are not common in cultivation or in the wild. Additionally, these species have specific germination and growth requirements consisting of seasonal inundation, which would be difficult to recreate in cultivation.

Regulations governing permits to carry out otherwise prohibited activities involving endangered wildlife are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued for a specified time to relieve undue economic hardship that would be suffered if such relief were not available. The Riverside fairy shrimp is not in trade, an such permit requests are not expected.

Requests for copies of the regulations on listed wildlife and plants and inquiries regarding them may be addressed to the office of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 432, Arlington, Virginia 22203–3507 (703/358/2104 or FTS 921–2104).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to these species;

(2) The location of any additional populations of these species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of these species; and,

(4) Current or planned activities in the subject area and their possible impacts on these species.

The final decision on this proposal will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Office Supervisor (See **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary authors of this proposed rule are Mr. Peter A. Stine and Ms. Nancy Gilbert, U.S. Fish and Wildlife Service, Laguna Niguel Field Station (See **ADDRESSES** section), and Ms. Karla Kramer, Eastside Federal Complex, 911 NE 11th Avenue, Portland, Oregon 97232–4181.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under the families indicated, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
*	*	*	*	*	*	
Apiaceae—Parsley family						
*	*	*	*	*	*	
Eryngium aristulatum var. *parishii*	San Diego button-celery	U.S.A. (CA)	E	NA		NA
*	*	*	*	*	*	
Lamiaceae—Mint family						
*	*	*	*	*	*	
Pogogyne nudiuscula	Otay Mesa mint	U.S.A. (CA)	E	NA		NA
*	*	*	*	*	*	
Poaceae—Grass family						
*	*	*	*	*	*	
Orcuttia californica	California Orcutt grass	U.S.A. (CA)	E	NA		NA

3. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under Crustaceans, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
•	•	•	•	•	•	•	
Crustaceans							
•	•	•	•	•	•	•	
Shrimp, Riverside fairy	*Streptocephalus woottoni*	U.S.A. (CA)		E	NA		NA
•	•	•	•	•	•	•	

Dated: September 30, 1991.

Richard N. Smith,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 91–27070 Filed 11–8–91; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 56, No. 218
Tuesday, November 12, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Announcement to the State Governors of an Invitation To Participate in the Presidential Initiative for State Rural Development Councils

AGENCY: Department of Agriculture.

ACTION: Notice of announcement.

SUMMARY: The President of the United States is inviting the State and Territorial Governors to participate in a partnership with the Federal government to form State Rural Development Councils.

DATES: The Governors are to respond with a letter of intent to the Secretary of Agriculture by December 15, 1991. The letters of intent will be reviewed, State proposals discussed with the responding States, and the first class of States selected by March 1, 1992.

FOR FURTHER INFORMATION CONTACT: W. Robert (Bob) Lovan, The Presidential Initiative on Rural Development, Office of Small Community and Rural Development, room 5405 South Building, USDA, Washington, DC 20250, (202) 690–2583.

SUPPLEMENTARY INFORMATION: January 1990, President Bush announced a six-point plan for a Rural Development Initiative in the report, "Rural Economic Development in the 90's: A Presidential Initiative,": (1) Form a Presidential Council on Rural America, (2) establish State Rural Development Councils (SRDC), (3) conduct rural development demonstrations, (4) expand the Rural Information Center, (5) target Federal rural development programs, and (6) make a permanent standing committee on rural development for the President's Economic Policy Council. This announcement is an invitation to the Governors to expand the second action item (SRDCs) from the 8 pilot States to an 16 additional States.

Dated: November 5, 1991.

Roland R. Vautour,

Under Secretary for Small Community and Rural Development.

[FR Doc. 91–27102 Filed 11–8–91; 8:45 am]

BILLING CODE 3410–07–M

Animal and Plant Health Inspection Service

[Docket 91–148]

Availability of Environmental Assessments and Findings of No Significant Impact Relative to Issuance of Permits To Field Test Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that six environmental assessments and findings of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of permits to allow the field testing of genetically engineered organisms. The assessments provide a basis for the conclusion that the field testing of these genetically engineered organisms will not present a risk of the introduction or dissemination of a plant pest and will not have a significant impact on the quality of the human environment. Based on these findings of no significant impact, the Animal and Plant Health Inspection Service has determined that environmental impact statements need not be prepared.

ADDRESSES: Copies of the environmental assessments and findings of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Petrie, Program Specialist, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD, 20782, (301) 436–7612. For copies of the environmental assessments and findings of no significant impact, write Mr. Clayton Givens at this same address. The documents should be requested under the permit number listed below.

SUPPLEMENTARY INFORMATION:

The regulations in 7 CFR part 340 regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article can be introduced into the United States. The regulations set forth procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

In the course of reviewing the permit applications, APHIS assessed the impact on the environment of releasing the organisms under the conditions described in the permit applications. APHIS concluded that the issuance of the permits listed below will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment.

The environmental assessments and findings of no significant impact, which are based on data submitted by the applicants as well as a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field tests.

Environmental assessments and findings of no significant impact have been prepared by APHIS relative to the issuance of the following permits to allow the field testing of genetically engineered organisms:

Permit No.	Permittee	Date issued	Organism	Field test location
91-151-0	Monsanto Agricultural Company	09-24-91	Soybean plants genetically engineered to express tolerance to the herbicide glyphosate.	Isabela, Puerto Rico
91-197-01	Pioneer Hi-Bred International, Incorporated.	09-24-91	Corn plants genetically engineered to express a wheat germ agglutinin (WGA), which inhibits the growth of the European corn borer.	Kauai County, Hawaii
91-197-02	Pioneer Hi-Bred International, Incorporated.	09-24-91	Corn plants genetically engineered to express a wheat germ agglutinin (WGA), which inhibits the growth of the European corn borer.	Dade County, Florida
91-203-01 (renewal of permit #91-274-05, issued on 11-15-90).	Upjohn Company	10-04-91	Soybean plants genetically engineered to express the B-glucuronidase (GUS) and phosphinothricin acetyltransferase (PAT) enzymes.	Isabela, Puerto Rico
91-218-02 (renewal of permit #91-074-01, issued on 06-05-91).	Upjohn Company	10-04-91	Corn plants genetically engineered to express a glufosinate phosphinothricin acetyltransferase (PAT) gene.	Isabela, Puerto Rico
91-168-01	Calgene, Incorporated	10-15-91	Rapeseed plants genetically engineered to express an oil modification gene and kanamycin resistance.	Baker, Sumter and Tift Counties, Georgia

The environmental assessments and findings of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4331 et seq.), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1509), (3) USDA Regulations Implementing NEPA (7 CFR part lb), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, DC, this 1st day of November 1991.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91-27105 Filed 11-8-91; 8:45 am]

BILLING CODE 3410-34-M

Rural Electrification Administration

Blue Earth-Nicollet-Faribault Cooperative Assoc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, as amended, the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), and REA Environmental Policies and Procedures (7 CFR part 1794), has made a Finding of No Significant Impact (FONSI) with respect to a project proposed by Blue Earth-Nicollet-Faribault Cooperative Association (Benco) under REA's Rural Economic Development Loan and Grant Program. The project consists of purchasing and developing a 16 hectare (40 acre) industrial park in Nicollet County, Minnesota. Benco of Mankato, Minnesota, has requested approval of financing assistance from REA.

FOR FURTHER INFORMATION CONTACT: REA's FONSI and Benco's Borrower's Environmental Report (BER), may be reviewed at and copies obtained from the office of the Director, Northern Regional Division, REA, room 0243, South Agriculture Building, Washington, DC 20250, telephone (202) 720–1420, or at the office of Benco, P.O. Box 8, Mankato, Minnesota 56002, telephone (507) 387–7963, during regular business hours. Questions or comments on the proposed project should be sent to the REA contact.

SUPPLEMENTARY INFORMATION: REA has reviewed the BER submitted by Benco and has determined that it represents an accurate assessment of the scope and level of environmental impacts of the proposed project. The BER, which includes input from certain state and Federal agencies, has been adopted by REA to serve as its Environmental Assessment (EA). The project consists of purchasing and developing a 16 hectare industrial park in Nicollet County, Minnesota.

REA has determined that the adopted BER adequately considered the potential impacts of the proposed project and concluded that approval of the project would not result in a major Federal action significantly affecting the quality of the human environment. REA determined that the proposed project will have no effect on cultural resources, floodplains, wetlands, water quality, air quality or threatened or endangered species or critical habitat. REA also concluded that there will be no significant impact on important farmland due to this proposed project. REA has identified no other matters of potential environmental concern related to the proposed project.

Alternatives examined for the proposed project included no action and alternative sites. REA determined that the proposed project is an environmentally acceptable alternative that meets Benco's need with a minimum of adverse environmental impact. REA has concluded that project approval would not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, the preparation of an environmental impact statement is not necessary.

In accordance with REA Environmental Policies and Procedures, 7 CFR part 1794, Benco published a notice in a newspaper of general circulation in the area and requested comments on the proposed project. The public was given 30 days to respond to the notice. No responses to the notice were received by Benco or REA.

Dated: November 1, 1991.

George E. Pratt,

Deputy Administrator—Programs Operations.

[FR Doc. 91-27038 Filed 11-8-91; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 69-91]

Foreign-Trade Zone 41—Milwaukee, WI; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Foreign-Trade Zone of Wisconsin, Ltd., grantee of FTZ 41, requesting authority to reorganize and expand its zone in Milwaukee, Wisconsin, within the Milwaukee Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on October 29, 1991.

FTZ 41 was approved in 1978 (Board Order 136, 43 FR 46887, 10/11/78) and expanded in 1981 (Board Order 178, 46 FR 40718, 8/11/81) and in 1985 (Board Order 315, 50 FR 43749, 10/29/85). The zone project currently consists of 4 sites (200 acres): Site 1 (78,000 sq. ft.) within the Ace World Wide Industrial Park, Milwaukee; Site 2 (120 acres) at the West Allis Industrial Center, West Allis (former Allis Chalmers plant); Site 3 (3 parcels, 50 acres) within the City's Northwestern Industrial Park; and, Site 4 (30 acres) at Milwaukee's airport.

The applicant is requesting authority to delete Sites 1, 3, and 4 from the zone project and add a site (new Site 1) at the Port of Milwaukee. This site would cover the entire Port complex (300 acres), which is owned by the City and operated by the City's Board of Harbor Commissioners. Zone activity at this site would be conducted as a part of Port operations.

No approvals for manufacturing are being sought at this time. Such requests would be made on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Richard Rudin, District Director, U.S. Customs Service, North Central Region, P.O. Box 37260, Milwaukee, WI 53237; and, Colonel Richard Kanda, District Engineer, U.S. Army Engineer District Detroit, P.O. Box 1027, Detroit, MI 48231.

Comments concerning the proposed zone expansion are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before December 27, 1991.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, 517 East Wisconsin Avenue, room 606, Milwaukee, WI 53202;

Office of the Executive Secretary, Foreign-Trade Zone Board, U.S. Department of Commerce, room 3716, 14th and Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: November 5, 1991.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 91-27132 Filed 11-8-91; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-588-807]

Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by the petitioner, the Gates Rubber Company, and several respondents, the Department of Commerce (the Department) has conducted an administrative review of the antidumping duty order on industrial belts and components and parts thereof, whether cured or uncured, (hereafter referred to as industrial belts) from Japan. This review covers various manufacturers and exporters of this merchandise to the United States during the period of February 1, 1989 through May 31, 1990. As a result of the review, the Department has preliminarily determined that dumping margins exist.

Interested parties are invited to comment on the preliminary results of this administrative review.

EFFECTIVE DATE: November 12, 1991.

FOR FURTHER INFORMATION CONTACT: Charles Vannatta or Jeffrey Laxague, Office of Agreements Comp iance, International Trade Administration U.S. Department of Commerce, Washington, DC 20230; telephone number (202) 377–3793.

SUPPLEMENTARY INFORMATION:

Background

On June 14, 1989, the Department published in the **Federal Register** (54 FR 25314) the antidumping duty order on industrial belts from Japan. We received timely requests from the petitioner and several respondents that the Department conduct an administrative review for the period of February 1, 1989 through May 31, 1990. On July 26, 1990 the Department published in the **Federal Register** (55 FR 30490) a notice of initiation of the antidumping administrative review covering four companies: Bando Chemical Industries, Ltd., Mitsuboshi Belting Limited, Nitta Industries, and the NOK Corporation. The Department is now conducting these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act). Subsequent to the publication date of the notice of initiation for this review, the Department received a timely withdrawal request from the NOK Corporation. As there were no requests for a review of the NOK Corporation from any other interested party, the Department is now terminating the review with respect to this company in accordance with the Department's regulations 19 CFR 353.22(a)(5).

Scope of the Review

Imports covered by the review are shipments of industrial belts and components and parts thereof, whether cured or uncured, from Japan. These products include V-belts, synchronous belts, and other industrial belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (i.e., closed loops) belts, or in belting in lengths or links. This review excludes conveyor belts and automotive belts as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses, and lift trucks.

During the period of review, the merchandise was classifiable under Harmonized Tariff System (HTS) subheadings 3926.90.55, 3926.90.56, 3926.90.57, 3926.90.59, 3926.90.60, 4010.10.10, 4010.10.50, 4010.91.11, 4010.91.15, 4010.91.19, 4010.91.50, 4010.99.11, 4010.99.15, 4010.99.19, 4010.99.50, 5910.00.10, 5910.00.90, and 7326.20.00. The HTS subheadings are provided for convenience and Customs purposes. The written description remains dispositive.

This review covers shipments during the period of February 1, 1989 through May 31, 1990, from three Japanese manufacturers and exporters of industrial belts to the United States: Bando Chemical Industries, Ltd.,

Mitsuboshi Belting Limited, and Nitta Industries.

Preliminary Results of the Review

Bando Chemical Industries, Ltd. and Nitta Industries did not respond to the Department's questionnaire requesting information concerning each company's home market and U.S. sales. Therefore the Department has applied the best information otherwise available (BIA) to determine the dumping margins for each of these two companies. As BIA, the Department used the BIA rate established in the original investigation, as provided in the petition. The Department used this selection of BIA in accordance with the hierarchy set forth in Antifiction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof, From the Federal Republic of Germany; Final Results of Antidumping Duty Administrative Review, 56 FR 31692, 31705.

Mitsuboshi Belting Limited (MBL) responded to the Department's original questionnaire on October 12, 1990 and December 5, 1990. In response to the Department's deficiency letter dated April 12, 1991, MBL submitted an additional narrative response on May 13, 1991, a supplemental home market sales response on May 24, 1991, and a supplemental exporter's sales price (ESP) response on May 30, 1991. However, MBL submitted its purchase price deficiency response after the deadline, and therefore the Department has returned this response and does not consider it to be a part of the administrative record. On August 13, 1991, the Department sent MBL a letter requesting information on entries during the period of review as well as a constructed value questionnaire covering those U.S. industrial belts for which there were no sales of such or similar merchandise in the home market. On September 3, 1991, MBL submitted the information concerning entries during the period of review, but did not provide the constructed value data as requested.

In calculating the U.S. sales price, the Department used purchase price and exporter's sales price, as defined in section 772 of the Tariff Act (19 U.S.C. 1677a (b) & (c)). The ESP price was based upon the packed c.i.f. price to unrelated purchasers in the United States. The Department made adjustments, where applicable, for U.S. and foreign inland freight, U.S. duties, U.S. and foreign brokerage, ocean freight and marine insurance, repacking in the United States, commissions, credit expenses, discounts, rebates, uncollected Japanese consumption taxes, and indirect selling expenses. No other adjustments were allowed. U.S. purchase price sales were based upon BIA, using MBL's original submission to estimate the total gross value of purchase price sales and applied to such values the rate provided in the petition from the original investigation.

The Department used home market price as defined in section 773 of the Tariff Act (19 U.S.C. 1677b) to calculate the foreign market value. Because of the large volume of home market transactions, a weighted-average foreign market value (FMV) was calculated for the entire sixteen month period of review in accordance with section 777A of the Tariff Act. Because section 777A requires the Department to insure that samples and averages be representative of the transactions under review, the Department conducted two studies to insure that the results would be representative. First, monthly weighted-average home market gross unit price was compared to the weighted-average home market gross unit price for the entire period. The Department found that the period's weighted-average price for more than ninety percent of the products sold came within ten percent of the monthly weighted-average price. Second, the Department tested whether the home market gross unit prices of the subject merchandise consistently rose or fell during the period of review. No significant correlation was found to exist between price and date of sale, *i.e.* prices did not consistently rise or fall so as to make period weighted-average prices unrepresentative of home market prices. Therefore, the results of these tests demonstrate that MBL's pricing practices remained stable during the review period, thus insuring that a weighted-average FMV for the sixteen month period of this review is as representative of home market prices as the traditionally employed monthly weighted-average FMV. The Department is satisfied that if the weighted-average FMV is representative of the home market prices for the entire period of review, then the margin calculated with this same weighted-average period FMV is also representative.

Home market prices were based on the packed c.i.f. or f.o.b. price to related purchasers in the home market where an arms-length relationship was demonstrated, and to unrelated purchasers in the home market. The Department made adjustments, where appropriate, for inland freight, rebates, differences in cost attributable to differences in physical characteristics of the merchandise, differences in credit expenses, and differences in packing. The Department accounted for taxes imposed in Japan which were not collected because the merchandise was exported to the United States by making a downward adjustment to foreign market value (FMV) for the tax amount collected on the Japanese sale, and an upward adjustment to FMV for the theoretical amount which would have been collected on the U.S. sale. Further adjustments were made, where applicable, for indirect selling expenses in the home market to offset U.S. indirect selling expenses and commissions deducted in the ESP calculations, but not exceeding the amount of those U.S. indirect selling expenses and commissions. No other adjustments were allowed.

Because MBL did not respond to the Department's constructed value questionnaire for those U.S. ESP sales of industrial belts for which no sales of such or similar merchandise were reported in the home market, the Department evaluated these sales on the basis of BIA, using the net U.S. sales price as defined above and the rate provided in the petition from the original investigation.

In order to determine MBL's dumping margin, as well as the assessment rate discussed below, the Department calculated the total potential uncollected dumping duty (PUDD). For U.S. ESP sales with reported home market sales of such or similar merchandise, the total PUDD was calculated as the sum of the difference between the foreign market value and the net U.S. price for each unit sold. For U.S. ESP sales with no reported home market sales of such or similar merchandise during the period of review, the total PUDD was based upon BIA, and was calculated as the product of the total U.S. net sales price for these sales and the cash deposit rate established in the investigation for all other manufacturers. The total PUDD for the purchase price sales was also based upon BIA, and was calculated as the product of the estimated total gross sales value of the purchase price sales and the cash deposit rate established in the original investigation for all other manufacturers. (For a discussion of the Department's methodology for calculating PUDD refer to Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany; Final Results of Antidumping Duty Administrative Review, 56 FR 31692,31699).

In order to calculate the overall dumping margin for MBL, the Department divided the sum of the total PUDD for the ESP and purchase price

sales by the total U.S. sales value, i.e. the sum of the net U.S. sales value for ESP sales and estimated gross U.S. sales value for purchase price sales.

As a result of our review, the Department preliminarily determines that the following dumping margins exist:

Company	Period of review	Margin
Bando Chemical Industries, Ltd.	2/1/89–5/31/90	93.16%
Mitsuboshi Belting Ltd.	2/1/89–5/31/90	56.27%
Nitta Industries	2/1/89–5/31/90	93.16%
All Other Producers/ Exporters	2/1/89–5/31/90	56.27%

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested parties may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication of this notice or the first workday thereafter.

Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. In order to determine MBL's assessment rate, the total potential uncollected dumping duties will be divided by the total declared U.S. Customs value of subject merchandise entered during the period of review. The assessment rate for all other firms will be based upon their individual cash deposit rate as established in the original investigation. The Department will instruct Customs to assess the resulting percentage margins against the declared value of each unit of subject merchandise entered during the period of review under this antidumping order.

Furthermore as provided by section 751(a)(1) of the Act, the following deposit requirements will be effective upon publication of the final results of this review for all shipments from Japan of the subject merchandise which is either entered for consumption or withdrawn from warehouse for consumption on or after the publication date: (1) The cash deposit rate for the reviewed companies will be that established in the final results of this review; (2) if the exporter is not a firm covered in this review or the original investigation but the manufacturer is or has been covered, then the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of this review or the original investigation of sales at less than fair value; (3) the cash deposit rate for all other exporters and/or producers, *i.e.* 56.27%, which is the highest non-BIA rate for any firm included in this review. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Commerce regulations (19 CFR 353.22(c) (5)).

Dated: October 31, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91–27133 Filed 11–8–91; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of issuance of an amended Export Trade Certificate of Review, Application No. 87–3A001.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to American Film Marketing Association on April 10, 1987. Notice of issuance of the Certificate was published in the Federal Register on April 17, 1987 (52 FR 12578).

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202–377–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing title III are found at 15 CFR part 325 (1990) (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the Federal Register. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Export Trade Certificate of Review No. 87–00001 was issued to American Film Marketing Association ("AFMA") on April 10, 1987 (52 FR 12578, April 17, 1987) and previously amended on March 25, 1988 (53 FR 10267, March 30, 1988), and August 29, 1989 (54 FR 36848, September 5, 1989).

AFMA's Export Trade Certificate of Review has been amended to:

1. Add each of the following companies as a "Member" within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2(1)): Alice Entertainment, Inc., Solvang, CA; Beyond International Group, Los Angeles, CA; Broadstar International, Hollywood, CA; The Summit Group, Santa Monica, CA; Curb/Esquire Films, Burbank, CA; Full Moon Entertainment, Los Angeles, CA; Largo Entertainment, Los Angeles, CA; Lone Star Pictures, Dallas, TX; Pentamerica Communications, Inc., Los Angeles, CA; Promark Entertainment, Los Angeles, CA; Quixote Productions, Los Angeles, CA; The Robert Lewis Company, Los Angeles, CA; Saban International, Burbank, CA; SC Entertainment International, Toronto, Ontario, Canada; Scotti Brothers Pictures, Santa Monica, CA; Sovereign Pictures, Inc., Los Angeles, CA; Sunny Film Corporation SDN BHD, Taman Desa, Kuala Lumpur, Malaysia; Telefilm Canada, Beverly Hills, CA; Titan International Licensing, N.V., Los Angeles, CA; Trans Atlantic Distribution, L.P., Los Angeles, CA; 21st Century Film Corporation, Los Angeles, CA; and World Films, Inc., Los Angeles, CA.

2. Delete each of the following companies as a "Member" of the Certificate: Atlantic International; Australian Films International, Inc.; Alexander Beck Ents., Inc.; Bandcompany; Cineplex Odeon Films International; Cinevest Entertainment Group, Inc.; Earl Owensby Studios; Empire International; Esquire Films, Inc.; Euramco International, Inc.; Ferde Grofe Films, Inc.; Film Ventures Int'l., Inc.; Filmaccord, Inc.; Filmation Associates; J.E.R. Pictures, Inc.; Lorimar-Telepictures Corporation; Marshall Entertainment; Nova International Films; Okco/Trilogy Licensing Corp.; Pathe Films N.V.; Premiere Film Marketing; Simcom Int'l.,

Inc.; Trans World Entertainment; Vestron International Group; Vidmark Entertainment; and Virgin Vision Ltd.

3. Change the listing of the company name of the following current "Members" as follows: change A.I.P. Distribution, Inc. to AIP Studios; Carolco International, N.V. to Carolco Pictures; Concorde/New Horizons to Concorde/Motion Picture Corporation; De Laurentiis Entertainment Group to Dino De Laurentiis Communications Inc.; Film & Television Company to I.N.I. Entertainment Group Inc.; Goldfarb Distributors, Inc. to GPD, Inc.; J&M Film Sales to J&M Entertainment; M.C.E.G./Manson Int'l. to M.C.E.G. Virgin Vision Ltd.; MGM/UA Distribution Co. to MGM/UA Entertainment Company; New Line Int'l Releasing to New Line Cinema Corporation; New World Pictures Inc. to New World International; Viacom International, Inc. to Viacom Pictures, Inc.; and K.R.G. Film Sales to Kings Road International.

A copy of the amended Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Dated: November 5, 1991.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 91-27134 Filed 11-8-91; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of Permit; Dr. Howard E. Winn and Mr. Richard O. Petricig (P12J)

On July 16, 1991, Notice was published in the **Federal Register** (56 FR 32405) that an application had been filed by Dr. Howard E. Winn, Professor of Oceanography and Zoology, Mr. Richard O. Petricig, Ph.D. candidate in Biological Oceanography, Graduate School of Oceanography, University of Rhode Island, Kingston, RI 02881, for a permit to take up to 100 Atlantic bottlenose dolphins (*Tursiops truncatus*) annually in the Coastal waters of South Carolina, during photo-identification and behavioral studies.

Notice is hereby given that on November 4, 1991 as authorized by the provisions of the Marine Mammal Protection Act of 1972 (U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking subject to the conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

By appointment: Permit Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, suite 7324, Silver Spring, Maryland 20910 (301/427-2289); Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, Florida 33702 (813/893-3141); and

Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, Massachusetts 01930 (508/281-9200).

Dated: November 4, 1991.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 91-27056 Filed 11-8-91; 8:45 am]

BILLING CODE 3510-22-M

[Modification No. 3 to Permit No. 663]

Marine Mammals; Issuance of Modification: Salvatore Cerchio (P36B)

Notice is hereby given that pursuant to the provisions of §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216) and § 220.24 of the regulations governing endangered species (50 CFR parts 217-222), Scientific Research No. 663 issued to Dr. Bernd Wursig and Mr. Salvatore Cerchio, Moss Landing Marine Laboratories, P.O. Box 450, Moss Landing, California 95039, on February 21, 1989, modified January 11, 1990 (55 FR 1861), January 31, 1991, is further modified in the following manner:

Section A.1 is deleted and replaced by:

1. Up to 600 humpback whales (*Megaptera novaeangliae*) may be taken annually by inadvertent harassment during photo-identification studies.

Issuance of this Permit and modification, as required by the Endangered Species Act of 1973, is based on the finding that such Permit as modified: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the Permit; and (3) is consistent with the purposes and policies set forth in Section 2 of the Act. This Permit, as modified, was also issued in accordance with and is subject to parts 220-222 of title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

This modification becomes effective upon publication in the **Federal Register.**

The Permit and modifications are available for review in the following offices:

By appointment: Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, Maryland 20910 (301/427-2289);

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731 (213/514-6666); and

Protected Species Coordinator, Pacific Area Office, Southwest Region, 2570 Dole Street, Honolulu, Hawaii 96822 (808/955-8891).

Dated: November 4, 1991.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 91-27055 Filed 11-8-91; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of an Import Restraint Limit and Guaranteed Access Level for Certain Wool Textile Products Produced or Manufactured in the Dominican Republic

November 6, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit and guaranteed access level.

EFFECTIVE DATE: December 1, 1991.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Bilateral Textile Agreement of January 20, 1989, as amended, between the Governments of the United States and the Dominican Republic establishes a limit and guaranteed access level (GAL) for wool textile products in Category 448 for the period December 1, 1991 through May 31, 1992.

A copy of the current bilateral agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State (202) 647–3889.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Information regarding the 1992 CORRELATION will be published in the **Federal Register** at a later date.

Requirements for participation in the Special Access Program are available in **Federal Register** notices 51 FR 21208, published on June 11, 1986; 52 FR 6595, published on March 4, 1987; 52 FR 26057, published on July 10, 1987; and 54 FR 50425, published on December 6, 1989.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 6, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1991; pursuant to the Bilateral Textile Agreement of January 20, 1989, as amended, between the Governments of the United States and the Dominican Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on December 1, 1991, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 448, produced or manufactured in the Dominican Republic and exported during the period beginning on December 1, 1991 and extending through May 31, 1992, in excess of 17,500 dozen.

Imports charged to the category limit for the period March 28, 1991 through November 30, 1991 shall be charged against that level of restraint to the extent of any unfilled balance. In the event the limit established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this directive.

The limit set forth above is subject to adjustment in the future pursuant to the provisions of the current bilateral agreement between the Governments of the United States and the Dominican Republic.

Additionally, pursuant to the current bilateral agreement; and under the terms of the Special Access Program, as set forth in 51 FR 21208 (June 11, 1986), 52 FR 26057 (July 10, 1987) and 54 FR 50425 (December 6, 1989), effective on December 1, 1991, a guaranteed access level of 20,000 dozen has been established for properly certified textile products assembled in the Dominican Republic from fabric formed and cut in the United States in wool textile products in Category 448 which are exported from the Dominican Republic during the period December 1, 1991 through May 31, 1992.

Any shipment for entry under the Special Access Program which is not accompanied by a valid and correct certification and Export Declaration in accordance with the provisions of the certification requirements established in the directive of February 25, 1987, as amended, shall be denied entry unless the Government of the Dominican Republic authorizes the entry and any charges to the appropriate specific limit. Any shipment which is declared for entry under the Special Access Program but found not to qualify shall be denied entry into the United States.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91–27127 Filed 11–8–91; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of an Import Restraint Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Fiji

November 5, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit for the new agreement year.

EFFECTIVE DATE: January 1, 1992.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–5810. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Bilateral Textile Agreement, effected by exchange of notes dated May 24, 1991 and August 20, 1991, between the Governments of the United States and the Republic of Fiji establishes a limit for Categories 351/651 for the period beginning on January 1, 1992 and extending through December 31, 1992.

A copy of the agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647–3889.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Information regarding the 1992 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 5, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Bilateral Textile Agreement, effected by exchange of notes dated May 24, 1991 and August 20, 1991, between the Governments of the United States and the Republic of Fiji; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1992, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 351/651, produced or manufactured in Fiji and exported during the twelve-month period beginning on January 1, 1992 and extending through December 31, 1992, in excess of 135,000 dozen.

Imports charged to this category limit for the period January 1, 1991 through December 31, 1991, shall be charged against that level of restraint to the extent of any unfilled balance. In the event the limit established for that period has been exhausted by previous

entries, such goods shall be subject to the level set forth in this directive.

The limit set forth above is subject to adjustment in the future pursuant to the provisions of the bilateral agreement between the Governments of the United States and the Republic of Fiji.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-27128 Filed 11-8-91; 8:45 am]

BILLING CODE 3510-DR-F

Adjustment of an Import Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in India

November 5, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: November 13, 1991.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6494. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Category 635 is being increased by application of swing. As a result, the limit for Category 635, which is currently filled, will re-open.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Also see 55 FR 51144, published on December 12, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 5, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 7, 1990, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1991 and extends through December 31, 1991.

Effective on November 13, 1991, you are directed to amend further the December 7, 1990 directive to increase the limit for Category 635 to 152,118 dozen [1], as provided under the terms of the current bilateral textile agreement between the Governments of the United States and India.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-27129 Filed 11-8-91; 8:45 am]

BILLING CODE 3510-DR-F

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Poland

November 5, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 1, 1992.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In a Memorandum of Understanding (MOU) dated September 26, 1991, the Governments of the United States and the Republic of Poland agreed to establish a new bilateral agreement for two consecutive one-year periods, beginning on January 1, 1992 and extending through December 31, 1993. A formal exchange of notes will follow.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish limits for the period January 1, 1992 through December 31, 1992.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Information regarding the 1992 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 5, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1991; pursuant to the Memorandum of Understanding dated September 26, 1991 between the Governments of the United States and the Republic of Poland; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1992, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Poland and exported during

[1] The limit has not been adjusted to account for any imports exported after December 31, 1990.

the twelve-month period beginning on January 1, 1992 and extending through December 31, 1992, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
335	130,000 dozen.
338/339	1,400,000 dozen.
410	2,500,000 square meters.
433	16,500 dozen.
434	11,000 dozen.
435	12,000 dozen.
443	210,000 numbers.
611	4,001,500 square meters.
645/646	205,000 dozen.

Imports charged to these category limits for the period January 1, 1991 through December 31, 1991 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the current bilateral agreement between the Governments of the United States and Republic of Poland.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-27130 Filed 11-8-91; 8:45 am]

BILLING CODE 3510-DR-F

Announcement of Import Restraint Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in the United Arab Emirates

November 6, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 1, 1992.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Bilateral Textile Agreement of February 23, 1991 between the Governments of the United States and the United Arab Emirates establishes limits for the period beginning on January 1, 1992 and extending through December 31, 1992.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Information regarding the 1992 CORRELATION will be published in the **Federal Register** at a later date.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 6, 1991.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Bilateral Textile Agreement of February 23, 1991 between the Governments of the United States and the United Arab Emirates; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1992, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in the United Arab Emirates and exported during the twelve-month period beginning on January 1, 1992 and extending through December 31, 1992, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
334/634	168,540 dozen.
336/636	146,068 dozen.
338/339	416,856 dozen of which not more than 277,903 dozen shall be in Categories 338-S/339-S [1].
340/640	273,934 dozen.
341/641	226,293 dozen.
342/642	179,776 dozen.
347/348	309,664 dozen of which not more than 154,832 dozen shall be in Categories 347-T/348-T [2].
351/651	129,214 dozen.
352	238,203 dozen.
363	7,704,686 numbers.
638/639	168,540 dozen.
647/648	241,574 dozen.
847	151,686 dozen.

[1] Category 338-S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.3010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.0068, 6112.11.0030 and 6114.20.0005; Category 339-S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2010, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.0070, 6112.11.0040, 6114.20.0010 and 6117.90.0022.

[2] Category 347-T: only HTS numbers 6103.19.2015, 6103.19.4020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.3010, 6112.11.0050, 6113.00.0038, 6203.19.1020, 6203.19.4020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.49.3020, 6210.40.2035, 6211.20.1520, 6211.20.3010 and 6211.32.0040; Category 348-T: only HTS numbers 6104.12.0030, 6104.19.2030, 6104.22.0040, 6104.29.2034, 6104.62.2010, 6104.62.2025, 6104.69.3022, 6112.11.0060, 6113.00.0042, 6117.90.0042, 6204.12.0030, 6204.19.3030, 6204.22.3040, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.69.3010, 6204.69.9010, 6210.50.2035, 6211.20.1550, 6211.20.6010, 6211.42.0030 and 6217.90.0050.

Imports charged to these category limits for the period beginning January 1, 1991 and extending through December 31, 1991 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-27131 Filed 11-8-91; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF EDUCATION

Advisory Council on Education Statistics; Meeting

AGENCY: Advisory Council on Education Statistics, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a

forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act This document is intended to notify the general public of their opportunity to attend.

DATE AND TIME: December 12, 1991, 9 a.m.–4 p.m. and December 13, 1991, 9 a.m.–noon.

ADDRESSES: 555 New Jersey Avenue, NW., room 326, Washington, DC 20208.

FOR FURTHER INFORMATION CONTACT: Suellen Mauchamer, Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue, room 400E, Washington, DC 20208–7575, telephone (202) 219–1839.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics (ACES) is established under section 406(c)(1) of the Education Amendments of 1974, Public Law 93–380. The Council is established to review general policies for the operation of the National Center for Education Statistics (NCES) in the Office of Educational Research and Improvement and is responsible for advising on standards to insure that statistics and analyses disseminated by NCES are of high quality and are not subject to political influence. The meeting of the Council is open to the public.

The proposed agenda includes the following:

- Updates on National Assessment of Educational Progress (NAEP) Activities, including NAEP Trend Data Release, Operations in 1992, and Data Reporting by Achievement Standards
- NCES Now and in the Year 2000
- Student Right to Know Act
- Uses of Statistical Data for Administrative Purposes
- NCES Postsecondary Assessment
- Council Business

Records are kept of all Council proceedings and are available for public inspection at the Office of the Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue NW., room 400E, Washington, DC 20208–7575.

Dated: November 5, 1991.

Diane Ravitch,

Assistant Secretary for Educational Research and Improvement and Counselor to the Secretary.

[FR Doc. 91–27126 Filed 11–8–91; 8:45 am]

BILLING CODE 4000–01–M

National Assessment Governing Board; Hearings

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of hearings.

SUMMARY: The Council of Chief State School Officers, under contract to the National Assessment Governing Board (NAGB), U.S. Department of Education, is announcing four public hearings. These hearings will be conducted as part of the Council's contract for NAGB for the purpose of developing an assessment framework and specifications for the 1994 National Assessment of Educational Progress (NAEP) U.S. History Assessment Project. Public and private parties and organizations with an interest in the quality of U.S. history assessment and education are invited to present written and oral testimony to the Council.

Each hearing will focus on recommendations for the 1994 NAEP U.S. History Assessment to be conducted at grades 4, 8, and 12. The results of the hearings are particularly important because they will provide for broad public input in developing the U.S. history assessment framework to be used in the national NAEP in 1994. This assessment will likely be used to measure progress toward two of the National Education Goals, specifically those related to student achievement and history. These hearings are being conducted pursuant to Public Law 100–297, section 6(E), which states that Each learning area assessment shall have goal statements devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, local school administrators, parents and concerned members of the general public."

DATES: The dates of the four public hearings have been set as follows:

- November 14, 1991 in San Diego, California
- November 23, 1991 in Washington, DC
- December 29, 1991 in Chicago, Illinois
- April 2–5, 1992 in Chicago, Illinois

The first two hearings are scheduled in the afternoon, the third will be held in the morning and the times for the April session will be announced at a later date. Persons desiring to present oral statements at the hearing shall submit a notice of intent to appear, postmarked no fewer than ten (10) days prior to the scheduled meeting date. The scheduling of oral presentations cannot be guaranteed for notices of intent received less than 10 days prior to the hearing.

Notices of intent to present oral statements shall be mailed to: Council of Chief State School Officers, 379 Hall of the States, 400 North Capitol Street NW., Washington, DC 20001–1511, attn: Bonnie Verrico—Public Hearings.

Locations

For the exact locations of the four public hearings, please contact Council offices at (202) 624–7700.

Written Statements

Written statements may be submitted for the public record in lieu of oral testimony up to 30 days after each hearing. These statements should be sent directly to the Council (see aforementioned address) in the following format:

I. Issues and Questions Addressed

Testimony should respond to the following questions:

1. How should U.S. history be conceived (in the last decade of the 20th Century) for elementary, middle, and high school?

2. How should U.S. history be organized in elementary, middle, and high school? What is the rationale for that organization?

3.What content should be included in U.S. history in elementary, middle, and high school? What should be the major topics and ideas? What kinds of student knowledge should be emphasized?

4. What U.S. history content, ways of thinking about history, and specialized analysis and research skills should be assessed? In structuring the assessment, what is the proper balance among factual knowledge, ways of thinking about history, and specialized analysis and research skills?

5. What assessment issues should be considered in developing specifications for the tests?

6. What kinds of assessment strategies could be used to assess student mastery and thinking beyond the recall level? What advanced technologies should be incorporated in assessment strategies?

7. What are some examples of good recall and higher-level thinking multiple choice test items? How can multiple choice questions be used to measure historical knowledge and thinking beyond the recall level?

II. Summary

Briefly summarize the major points and recommendations presented in the testimony.

III. Discussion

The narrative should provide information, points of view and recommendations that will enable the Council to consider all factors relevant to the question(s) the testimony addresses. Respondents are encouraged to limit this section of their written

statements to five (5) pages. The discussions may be appended with documents of any length providing further explanation.

Written statements presented at each hearing will be accepted and incorporated into the public record. All written statements should follow the above format, as much as it is possible.

Hearings Objectives and Procedures

The Council seeks participation in the hearings from a broad spectrum of individuals and organizations in the sharing of opinions and recommendations regarding U.S. history proficiencies, knowledge, and those skills and strategies to be assessed at grade levels 4, 8, and 12. The list of speakers shall, on the one hand, provide a wide range of viewpoints and interests, but also be organized to respect the time constraints of the hearing schedule.

The goal of the hearings is to provide the medium for maximum input and guidance from teachers, curriculum specialists, local school administrators, parents and concerned members of the general public. Following a brief introduction to the project by the Council of Chief State School Officers, the majority of the session will be devoted to presentations by scheduled speakers.

As listed in the "Dates" section above, speakers wishing to present statements shall file notices of intent. To assist the Council in appropriately scheduling speakers, the written notice of intent to present oral testimony should include the following information:

(1) Name, address and telephone number of each person to appear;

(2) Affiliation (if any);

(3) A brief statement of the issues and/or concerns that will be addressed; and

(4) Whether a written statement will be submitted for the record.

Individuals who do not register in advance will be permitted to register and speak at the meeting in order of registration, if time permits. Speakers should plan to limit their total remarks to no more than five (5) minutes. While it is anticipated that all persons will have an opportunity to speak, time limits may not allow this to occur. The Council will make the final determination on selection and scheduling of speakers.

All written statements presented at the hearings will be accepted and incorporated into the public record. Written statements submitted in lieu of oral testimony should be received no later than 30 days after each hearing in order to be included in the public record. However, while written statements received after this date will be accepted, inclusion in the public record cannot be guaranteed.

A staff member from the Council of Chief State School Officers will preside at each of the four hearings. The proceedings will be audiotaped. The hearings will also be signed for the hearing-impaired and a bilingual speaker (Spanish-English) will be available at some sites.

Additional Information

Additional information is available from the Council offices for anyone wishing to obtain more specifics on the assessment project. The 1988 NAEP U.S. History Objectives, a draft framework outline for the 1994 assessment, and draft assessment guidelines will be made available to interested parties. Individuals wanting additional information on a specific hearing should contact Council offices at (202)624–7700.

Steps After Hearing

The Council will review and analyze all comments and opinions received in response to this announcement. A report of the outcomes of these hearings will be made available to the public upon request after September 1992. The results of this public testimony, along with the Council's U.S. History Consensus committee work, will be used to formulate recommendations on the 1994 NAEP U.S. History Assessment for the National Assessment Governing Board. The Board, charged with developing the assessment framework and specifications, will take final action on the Council's recommendations in the fall of 1992. The following documents will be forthcoming from these coordinated activities:

(1) A framework for the 1994 U.S. history assessment—including objectives to guide the 1994 assessment, specifications for the test content, and item specifications.

(2) Background variables and achievement data will be collected which culminate in a description of our nation's students, teachers and schools. These variables should stress factors presently known to be consistently associated with history achievement, factors that address distributional or equity issues, and matters of particular importance to policymakers.

(3) Recommendations and examples of the format to be used to report assessment and background data in history.

(4) A final report describing the consensus process. A record of all Council proceedings will be kept at the Council of Chief State School Officers until September 1992 and at the National Assessment Governing Board following that date, and will be available for public inspection at that time.

Dated: November 6, 1991.

Diane Ravitch,

Assistant Secretary and Counselor to the Secretary.

[FR Doc. 91–27125 Filed 11–8–91; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Cooperative Agreement; Georgia Tech Research Institute

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy Field Office, Idaho announces that pursuant to the DOE Financial Assistance rules 10 CFR 600.7, it intends to award a renewal of Cooperative Agreement Number DE–FG07–89ID12905 to Georgia Tech Research Institute (GTRI). The objective of the work to be performed under this Cooperative Agreement is to develop a prototype sensor to monitor gaseous ammonia (NH_3) nitrogen transfer from agricultural cropland.

FOR FURTHER INFORMATION CONTACT: Dallas L. Hoffer, U.S. Department of Energy, DOE Field Office, Idaho, 785 DOE Place MS 1221, Idaho Falls, Idaho 83401–1562, 208/526–2173.

SUPPLEMENTARY INFORMATION: The statutory authority for the proposed award is Public law 93–577, the "Federal Non-nuclear Energy Research and Development Act of 1974" (ERDA). The unsolicited proposal meets the criteria for "non-competitive financial assistance," as set forth in 10 CFR 600.7(b)(2). The objective of the project is to develop a prototype sensor to monitor gaseous ammonia (NH_3) nitrogen transfer from agricultural cropland. The anticipated total project period to be awarded is twenty-four (24) months. The total DOE cost of the renewal is estimated at $360,000. Cost share by GTRI is estimated to equal or exceed 20% of the total project costs.

Dolores J. Ferri,

Director, Contracts Management Division.

[FR Doc. 91–27138 Filed 11–8–91; 8:45 am]

BILLING CODE 6450–01–M

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meetings

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6273(c)(1)(A)(i)), the following meeting notices are provided:

I. A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on Tuesday, November 19, 1991, at the offices of the Organization for Economic Cooperation and Development (OECD), 2, rue Andre Pascal, Paris, France, beginning at 9:30 a.m. The purpose of this meeting is to allow representatives of U.S. company members of the IAB to participate in a meeting of a joint government/industry Design Group which has been established by the IEA's Standing Group on Emergency Questions (SEQ) for preparation of the Seventh IEA Allocation Systems Test (AST-7). The agenda for the meeting is under the control of the IEA Secretariat. It is expected that the following draft agenda will be followed:

1. Opening remarks.
2. Preparations for AST-7 including:
—Objectives;
—Most efficient means of achieving these;
—Review of Room Document No. 3 of 17th October 1991 and the IAB Chairman's report on the Calgary meeting containing recommendations on training and other features of AST-7;
—Other relevant material submitted by administrations and companies.
3. Any other business.
4. Date of next meeting.

II. A meeting of the Industry Advisory Board will be held on Wednesday, November 20, 1991, at the OECD beginning at 10 a.m. The purpose of this meeting is to permit representatives of U.S. company members of the IAB to participate in a meeting of the Working Group on Emergency Data Systems of the SEQ, scheduled to be held at the aforesaid location on the date. This Working Group is considering the scope of the data requirements relating to the IEA's Emergency Sharing System, the benefits and burdens of the current data requirements and possible reforms to these data requirements. The Agenda for the meeting, which is under the control of the Secretariat, is as follows:

1. Work program for the group.
2. Allocation of tasks.
3. Timetable for completion of tasks.
4. Any other business.
5. Date of next meeting.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings are open only to representatives of members of IAB, their counsel, representatives of the Departments of Energy, Justice, State, the Federal Trade Commission, and the General Accounting Office, representatives of Committees of the Congress, representatives of the IEA, representatives of the Commission of the European Communities, and invitees of the IAB, the SEQ, or the IEA.

Issued in Washington, DC, November 6, 1991.

John U. Easton, Jr.,

General Counsel.

[FR Doc. 91-27729 Filed 11-8-91; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[Docket No. FE C&E 91-20; Certification Notice—88]

Certification of Compliance: Coal Capability of New Electric Powerplant Pursuant to Provisions of the Powerplant and Industrial Fuel Use Act, as Amended

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 *et seq.*), provides that no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternate fuel as a primary energy source (FUA section 201(a), 42 U.S.C. 8311 (a), supp. V. 1987). In order to meet the requirement of coal capability, the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source may certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date it is filed with the Secretary. The Secretary is required to publish in the Federal Register a notice reciting that the certification has been filed. One owner and operator of proposed new electric base load power-plant has filed a self-certification in accordance with section 201(d).

Further information is provided in the SUPPLEMENTARY INFORMATION section below.

SUPPLEMENTARY INFORMATION: The following company has filed a self-certification:

Name	Date received	Type of facility	Megawatt capacity	Location
Camden Cogen L.P., Houston, TX	10-29-91	Topping Cycle	136.8	Camden, NJ.

Amendments to the FUA on May 21, 1987 (Public Law 100-42), altered the general prohibitions to include only new electric base load powerplants and to provide for the self-certification procedure.

Copies of this self-certification may be reviewed in the Office of Fuels Programs, Fossil Energy, room 3F-056, FE-52, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, or for further information call Myra Couch at (202) 586-6769.

Issued in Washington, DC, on November 5, 1991.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Fossil Energy.

[FR Doc. 91-27139 Filed 11-8-91; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4028-9]

Grand Canyon Visibility Transport Commission; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The United States Environmental Protection Agency is announcing the first meeting of the Grand Canyon Visibility Transport Commission to be held on November 13, 1991. The Clean Air Act Amendments of 1990 require the Administrator of the Environmental Protection Agency to establish, by November 15, 1991, a visibility transport commission for the region affecting the visibility of the Grand Canyon National Park. This meeting is not subject to the provisions of the Federal Advisory Committee Act, Public Law 92-463, as amended.

DATES: The meeting will be held on November 13, 1991.

ADDRESSES: The meeting will be held at: The Shrine of the Ages, South Rim, Grand Canyon National Park, Grand Canyon, Arizona.

FOR FURTHER INFORMATION CONTACT: Robert S. Pallarino, Environmental Protection Specialist, Air Planning Branch (A-2-2), Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105, (415) 744-1179.

SUPPLEMENTARY INFORMATION: The Clean Air Act, as amended in 1990, contains at section 169B new provisions which authorize the United States Environmental Protection Agency (U.S. EPA) to establish visibility transport regions and visibility transport commissions. In addition section 169B specifically directs the Administrator of the U.S. EPA to establish a commission for the region affecting visibility at the Grand Canyon National Park by November 15, 1991.

Generally, the visibility transport commissions must consist of the Administrator of U.S. EPA (or his designee), the Governor of each state in the visibility transport region (or their designee), and a representative of each Federal agency charged with direct management of each class I area (certain national parks and wildernesses) within the region. The commissions are charged with assessing currently available studies and information pertaining to visibility impairment from sources in the transport region and are to issue a report to U.S. EPA within four years recommending what measures, if any, should be taken under the Clean Air Act to remedy such impairment.

The purpose of this notice is to announce the first meeting of the Grand Canyon Visibility Transport Commission at the location noted above. U.S. EPA further notes that the Administrator has broad discretionary authority under section 169B(c) of the Act to establish visibility transport regions and commissions and, to the extent necessary, has relied on this authority to expand the scope of the Grand Canyon Visibility Transport Commission to include additional class I areas in the vicinity of the Grand Canyon National park—what is sometimes referred to as the "Golden Circle" of parks and wilderness areas. This includes most of the national parks and national wilderness areas of the Colorado Plateau. The meteorological patterns which determine visibility conditions are the same for the Grand Canyon National Park and these additional national parks and wilderness. The Administrator has invited the Governors of Arizona, California, Colorado, Idaho, New Mexico, Nevada, Oregon, and Utah (or their designees) to participate as members of the Commission. The Administrator has also invited the Chief of the U.S. Forest Service and the Directors of the U.S. Bureau of Land Management, U.S. Fish and Wildlife Service and National Park Service to represent their federal agencies on the Commission.

Section 169B(c)(4) of the amended Clean Air Act specifies that the meetings of the visibility transport commissions shall be exempt from the requirements of the Federal Advisory Committee Act.

This meeting will be open to the public as space permits.

Type of Meeting: This meeting is open to the general public.

Agency: The meeting is scheduled to begin at 9:00 a.m. and is expected to last until 2 p.m. There is seating for approximately 175 people. The purpose of the meeting is to establish and organize the Commission.

Dated: November 4, 1991.

John Wise,

Acting Regional Administrator.

[FR Doc. 91-27123 Filed 11-8-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4028-8]

Kassouf-Kimerling Site: Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122 (g)(4) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has agreed to settle claims for response costs at the Kassouf-Kimerling Site, Tampa, Florida with the *de minimis* landowner parties. EPA will consider public comments on the proposed settlement for thirty days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Copies of the proposed settlement and a list naming the *de minimis* parties are available from: Ms. Carolyn McCall, Waste Programs Branch, U.S. EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365 (404) 347-5059.

Written comments may be submitted to the person above by thirty days from the date of publication.

Dated: October 17, 1991.

Richard D. Green,

Director, Waste Management Division.

[FR Doc. 91-27124 Filed 11-8-91; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

November 6, 1991.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452-1422. For further information on this submission contact Judy Boley, Federal Communications Commission (202) 632-7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: 3060-0297.

Title: Section 80.503, Cooperative use of facilities.

Action: Extension.

Respondents: Individuals or households, state or local governments, non-profit institutions and businesses or other for-profit (including small businesses).

Frequency of Response: Recordkeeping requirement.

Estimated Annual Burden: 100 recordkeepers; 16 hours average burden

per recordkeeper; 1,600 hours total annual burden.

Needs and Uses: The recordkeeping requirements contained in § 80.503 are necessary to ensure licensees which share private facilities operate within the specified scope of service, on a non-profit basis, and do not function as communications common carriers providing ship-shore public correspondence services. The information is used by FCC staff during inspections and investigations to insure compliance with applicable rules. If this data were not available enforcement efforts could be hindered, frequency congestion in certain bands could increase, and the financial viability of some public coast radiotelephone stations could be threatened.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-27141 Filed 11-8-91; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Georgia Ports Authority, et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200294-004.

Title: Georgia Ports Authority/Mitsui/NYK/NLS Terminal Agreement.

Parties: Georgia Ports Authority ("Port"), Mitsui O.S.K. Lines ("Mitsui"), Nippon Yusen Kaisha ("NYK"), Nippon Lines System ("NLS").

Synopsis: The proposed amendment would add authority for the parties to extend the term of the Agreement for three additional three year terms. It would also provide for annual adjustments of the compensation to be paid to the Port and would delete NLS as a party to the Agreement.

Dated: November 5, 1991.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91-27046 Filed 11-8-91; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed; Jacksonville Port Authority, et al.

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 560.7 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224-004048-001.

Title: Jacksonville Port Authority ("JPA")/Puerto Rico Maritime Shipping Authority Marine Terminal Agreement.

Parties: Jacksonville Port Authority; Puerto Rico Maritime Shipping Authority.

Filing Agent: Carl L. Timmer, General Traffic Manager, Jacksonville Port Authority, 2831 Talleyrand Ave., Jacksonville, Florida 32206.

Synopsis: The Agreement, filed October 29, 1991, provides a schedule of tariff exception rates for terminal use, wharfage, and equipment rental.

Dated: November 5, 1991.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91-27047 Filed 11-8-91; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

FNB Bancorporation, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 3, 1991.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. FNB Bancorporation, Inc., Ft. Mitchell, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Northern Kentucky, Ft. Mitchell, Kentucky, a *de novo* bank.

2. American Bancorporation, Wheeling, Wast Virginia; to acquire 100 percent of the voting shares of Wellsburg Bank and Trust Company, Wellsburg, West Virginia.

Board of Governors of the Federal Reserve System, November 5, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-27062 Filed 11-8-91; 8:45 am]

BILLING CODE 6210-01-F

Dale E. and Cynthia S. Hoosier, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and

§ 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 3, 1991.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Dale E. and Cynthia S. Hoosier, WaKeeney, Kansas, to acquire up to 42.87 percent; Douglas A. and Laura Malsam, Hill City, Kansas, to acquire up to 25.29 percent; Roger A. Flax, WaKeeney, Kansas, to acquire up to 13.73 percent; Larry L. Dietz, WaKeeney, Kansas, to acquire up to 6.93 percent; David J. and Nancy J. Harding, WaKeeney, Kansas, to acuqire up to 6.18 percent; K.D. Mollenkamp, Arnold, Kansas, to acquire up to 6.18 percent; Dale Newcomer, WaKeeney, Kansas, to acquire up to 7.72 percent; and Gregory A. Trogstad, WaKeeney, Kansas, to acquire up to 6.18 percent of the voting shares of Bankers Capital Corporation, Lusk, Wyoming, and thereby indirectly acquire Lusk State Bank, Lusk, Wyoming.

Board of Governors of the Federal Reserve System, November 5, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-27063 Filed 11-8-91; 8:45 am]

BILLING CODE 6210-01-F

Norwest Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 26, 1991.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota; to acquire Cathcart & Maxfield, Inc., a Minneapolis corporation, and R.K. Petersen Insurance Agency, Inc., Edina, Minnesota, and thereby engage in general insurance agency activities pursuant to § 4(c)(8)(G) of the Bank Holding Company Act and § 225.25(b)(8)(vii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 5, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-27064 Filed 11-8-91; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91E-0357]

Determination of Regulatory Review Period for Purposes of Patent Extension; Survanta®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Survanta® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, room 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard Klein, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medial device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension and applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants

permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Survanta®. Survanta® (beractant) is indicated for prevention and treatment of Respiratory Distress Syndrome (RDS) (hyaline membrane disease) in premature infants. Subsequent to this approval, the Patent and Trademark Office of received a patent term restoration application for Survanta® (U.S. Patent No. 4,397,839) from Tokyo Tanabe Co. Ltd., and requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated September 17, 1991, FDA advised the Patent and Trademark Office that the human drug product had undergone a regulatory review period. The letter also stated that the approval of the active ingredient, beractant, represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that the FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Survanta® is 1,978 days. Of this time, 1,432 days occurred during the testing phase of the regulatory review period, while 546 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* February 1, 1986. The applicant claims December 30, 1985, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND became effective on February 1, 1986.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* January 2, 1990. The applicant claims December 28, 1989, as the date the new drug application (NDA) was initially submitted. However, FDA records indicate that the NDA was filed on January 2, 1990.

3. *The date the application was approved:* July 1, 1991. FDA has verified the applicant's claim that NDA 20-032 was approved on July 1, 1991.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,278 days of patent term extension.

Anyone with knowledge that any of the dates as published in incorrect may, on or before January 13, 1992, submit to the Dockets Management branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before May 1, 1992, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m., and 4 p.m., Monday through Friday.

Dated October 31, 1991.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 91-27142 Filed 11-8-91; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91M-0411]

Abbot Laboratories; Premarket Approval of Abbott IMx® PSA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Abott Laboratories, Abbott Park, IL, for premarket approval, under section 515 of the Federal Food, Drug, and Cosmetic Act (the act), of Abbott IMx® PSA. After reviewing the recommendation of the Immunology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 25, 1991, of the approval of the application.

DATES: Petitions for administrative review by December 12, 1991.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph L. Hackett, Center for Devices and Radiological Health (HFZ-440), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1096.

SUPPLEMENTARY INFORMATION: On March 1, 1991, Abbott Laboratories, One Abbott Park Rd., IL 60064-3500, submitted to CDRH an application for premarket approval of the Abbott IMx® PSA. The device is a microparticle enzyme immunoassay for the quantitative measurement of prostate specific antigen in human serum. The Abbott IMx® PSA is an adjunctive test used as an aid in the management of prostate cancer patients.

On June 24, 1991, the Immunology Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, reviewed and recommended approval of the application. On September 25, 1991, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing

the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 12, 1991, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e (d), 360j (h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 30, 1991.

Elizabeth D. Jacobson,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 91-27144 Filed 11-8-91; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91M-0395]

Baxter Healthcare Corp.; Premarket Approval of the Carpentier-Edwards® Bioprosthesis Models 2625 (Aortic) and 6625 (Mitral)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Baxter Healthcare Corp., Santa Ana, CA, for premarket approval, under section 515 of the Federal Food, Drug, and Cosmetic Act (the act), of Carpentier-Edwards® Bioprosthesis Models 2625 (aortic) and 6625 (mitral). After reviewing the recommendation of the Circulatory System Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 25, 1991, of the approval of the application.

DATES: Petitions for administrative review by December 12,1991.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Diane MacCulloch, Center for Devices and Radiological Health (HFZ-450), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1200.

SUPPLEMENTARY INFORMATION: On November 30, 1987, Baxter Healthcare Corp., Santa Ana, CA 92711-1105, submitted to CDRH an application for premarket approval of Carpentier-Edwards® Bioprosthesis Models 2625 (aortic) and 6625 (mitral). The Carpentier-Edwards® bioprosthesis is indicated for use in patients whose aortic or mitral valvular disease is sufficiently advanced to warrant replacement of their natural valve with a prosthetic one. It is also intended for use in patients with a previously implanted aortic or mitral valve prosthesis that is no longer functioning adequately and requires replacement.

On March 11, 1988, the Circulatory System Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, reviewed and recommended approval of the application. On September 25, 1991, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 12, 1991, file with the dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sections 515(d), 520(h) (21 U.S.C. 3603(d), 360j(h)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 28, 1991.

Elizabeth D. Jacobson,

Deputy Director, Center for Devices and Radiological Health.

FR Doc. 91-27145 Filed 11-8-91; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91M-0410]

Baxter Healthcare Corp.; Premarket Approval of the Carpentier-Edwards® Duraflex™ Bioprosthesis, Models 6625-LP and 6625-ESR-LP

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Baxter Healthcare Corp., Santa Ana, CA, for premarket approval, under section 515 of the Federal Food, Drug, and Cosmetic Act (the act), of Carpentier-Edwards® Duraflex™ Bioprosthesis, Models 6625-LP and 6625-ESR-LP. After reviewing the recommendation of the Circulatory System Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 25, 1991, of the approval of the application.

DATES: Petitions for administrative review by December 12, 1991.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, room 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Diane MacCulloch, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1200.

SUPPLEMENTARY INFORMATION: On December 7, 1987, Baxter Healthcare Corp., P.O. Box 11150, Santa Ana, CA 92711–1150, submitted to CDRH an application for premarket approval of Carpentier-Edwards® Duraflex™ Bioprosthesis, Models 6625–LP and 6625–ESR–LP. The device is intended for use in patients whose mitral valvular disease is sufficiently advanced to warrant replacement of their natural valve with a prosthetic one. The device is also intended for use in patients with a previously implanted mitral valve prosthesis which is no longer functioning adequately and requires replacement.

On June 30, 1989, the Circulatory System Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 25, 1991, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 12, 1991, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sections 515(d), 520(h), (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 28, 1991

Elizabeth D. Jacobson,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 91–27146 Filed 11–8–91; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 91M–0397]

Baxter Healthcare Corp.; Premarket Approval of the Carpentier-Edwards® Pericardial Bioprosthesis, Model 2700

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Baxter Healthcare Corp., Santa Ana, CA, for premarket approval, under section 515 of the Federal Food, Drug, and Cosmetic Act (the act), of the Carpentier-Edwards® Pericardial Bioprosthesis, Model 2700. After reviewing the recommendation of the Circulatory System Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 26, 1991, of the approval of the application.

DATES: Petitions for administrative review by December 12, 1991.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, room 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Diane MacCulloch, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1200.

SUPPLEMENTARY INFORMATION: On November 18, 1986, Baxter Healthcare Corp., Santa Ana, CA 92711–1150, submitted to CDRH an application for premarket approval of the Carpentier-Edwards® Pericardial Bioprosthesis Model 2700. The Carpentier-Edwards® Pericardial valve is intended for use in patients whose aortic valvular disease is sufficiently advanced to warrant replacement of their natural valve with a prosthetic one. It is also intended for use in patients with a previously implanted aortic valve prosthesis that is no longer functioning adequately and requires replacement.

On November 28, 1988, the Circulatory System Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, reviewed and recommended approval of the application. On September 26, 1991, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner

shall identify the form of review requested (hearing of independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 12, 1991, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sections 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 28, 1991.

Elizabeth D. Jacobson,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 91-27147 Filed 11-8-91; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91M-0380]

Softlensco, Inc.; Premarket Approval of Elastic™ Model AA-4203 Silicone Posterior Chamber Intraocular Lens, Also Known as the Chiroflex™ Model 32-C10XX Silicone Posterior Chamber Intraocular Lens

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Softlensco, Inc., Los Angeles, CA, for premarket approval, under section 515 of the Federal Food, Drug, and Cosmetic Act (the act), of the Elastic™ Model AA-4203 Silicone Posterior Chamber Intraocular Lens, also known as the Chiroflex™ Model 32-C10XX Silicone Posterior Chamber Intraocular Lens. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 16, 1991, of the approval of the application.

DATES: Petitions for administrative review by December 12, 1991.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, room 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy C. Brogdon, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1212.

SUPPLEMENTARY INFORMATION: On December 7, 1988, Softlensco, Inc., Los Angeles, CA 90071, submitted to CDRH an application for premarket approval of the Elastic™ Model AA-4203 Silicone Posterior Chamber Intraocular Lens, also known as the Chiroflex™ Model 32-C10XX Silicone Posterior Chamber Intraocular Lens. The device is indicated for primary implantation for the visual correction of aphakia in persons 60 years of age or older in whom the cataractous lens has been removed by phacoemulsification extracapsular cataract extraction. The device is intended to be placed only in the capsular bag following successful circular tear anterior capsulotomy with a verified absence of radial tears. In addition, the device is available in powers from 4 to 34 diopters in 0.5 diopter increments.

On April 19, 1990, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 16, 1991, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 12, 1991, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sections 515(d), 520(h), (21 U.S.C. 360e(d), 360j(h)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 28, 1991.

Elizabeth D. Jacobson,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 91-27148 Filed 11-8-91; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91E-0327]

Determination of Regulatory Review Period for Purposes of Patent Extension; Ventake® P AICD™ Model 1600

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Ventak®

P AICD™ Model 1600 and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that medical device.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, room 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard Klein, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase beings. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 158(g)(3)(B).

FDA recently approved for marketing the medical device Ventak® P AICD™ Model 1600, which is an implantable cardiovascular defibrillator to treat ventricular tachycardia and ventricular fibrillation by delivering countershocks to the heart. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Ventak® P AICD™ Model 1600 (U.S. Patent No. 4,316,472) from Ronald D. Cohn, on behalf of Mieczyslaw Mirowski (now deceased), and requested FDA's assistance in determining the patent's eligibility for patent term restoration. FDA, in a letter dated September 21, 1991, advised the Patent and Trademark Office that the medical device had undergone a regulatory review period, and that the medical device represented the first permitted commercial marketing or use. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Ventak® P AICD™ Model 1600 is 958 days. Of this time, 436 days occurred during the testing phase of the regulatory review period, while 522 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date a clinical investigation involving this device was begun.* September 18, 1988. The applicant claims September 13, 1988, as the date the investigational device exemption (IDE) became effective. However, FDA records indicate that the IDE was determined to be substantially complete on September 18, 1988.

2. *The date an application was initially submitted with respect to the device under section 515 of the Federal Food, Drug, and Cosmetic Act.* November 27, 1989. FDA has verified the applicant's claims that the premarket approval application (PMA) (P890061) was filed on November 27, 1989.

3. *The date the application was approved.* May 2, 1991. FDA has verified the applicant's claim that the PMA (P890061) was approved on May 2, 1991.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 827 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before January 13, 1992, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before May 11, 1992, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 31, 1991.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 91–27143 Filed 11–8–91; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and explanatory material may be obtained by contacting Reclamation's clearance officer at the telephone number listed below. Comments and suggestions on the proposal should be made within 30 days directly to Reclamation's clearance officer and to the Office of Management Budget, Paperwork Reduction Project (1006–****), Washington, DC 20503, telephone 202–395–5897.

Title: Survey of economic impacts on Boulder City, Nevada, businesses associated with alternate Colorado River bridge crossings.

OMB approval number: 1006–****

Abstract: Currently, more than 10,000 vehicles cross Hoover Dam with daily traffic projected to increase to 22,500 vehicles by the year 2016.

The original design capacity of the roadway across Hoover Dam was 300 vehicles. This high usage has dramatically increased potential hazards to public safety, with 189 accidents occurring during the period 1986 through 1989.

Hoover Dam is the only Colorado River crossing in the general vicinity of Las Vegas, Nevada. Lee's Ferry, 250 miles upstream, and Davis Dam, 90

miles downstream, are the closest crossings.

Reclamation, in cooperation with the Federal Highway Administration, the highway departments of the States of Nevada and Arizona, and U.S. Park Service, is investigating alternative bridge crossings in the Hoover Dam area. Numerous routes have been studied and an Environmental Impact Statement is now being prepared which compares environmental, social, and economic impacts of the various alternative routes. As a result of concerns expressed by local residents about alternatives which would continue to route traffic through Boulder City, Reclamation is proposing a one-time survey to determine the economic impacts on local businesses of routes which would bypass the city.

Reclamation form number: This survey will not be issued a Reclamation form number.

Frequency: One time.

Descriptions of respondents: Businesses in the Boulder City, Nevada, area.

Estimated completion time: 30 minutes.

Number of respondents: 600.

Burden Hours: 300 hours.

Bureau Clearance Officer: Robert A. Lopez, 303–236–6769.

Dated: October 16, 1991.

Robert A. Lopez,

Chief, Publications and Records Management Branch.

[FR Doc. 91–27072 Filed 11–8–91; 8:45 am]

BILLING CODE 4310–09–M

National Park Service

Revision of Park Boundary: Women's Rights National Historical Park

Whereas, section 5 of Public Law 95–42 (91 Stat. 211) amended the Land and Water Conservation Fund Act of 1965 to authorize the Secretary of the Interior to acquire, by donation, land adjacent to an area of the National Park System; and

Whereas, section 1601 of Public Law 96–607 (94 Stat. 3546–3548), authorizes the acquisition of certain lands in Seneca Falls, New York, for Women's Rights National Historical Park; and

Whereas, the Village of Seneca Falls and the State of New York have expressed their intention to donate an interest in the lands immediately adjacent to the Park;

Therefore, pursuant to section 5 of Public Law 95–42, notice is given that the boundary of Women's Rights National Historical Park has been revised to include an addition 0.21 acres identified as Tracts 101–11, 101–12, and 101–14 on Land Status Map 101 on Drawing No. 488/80,000, Sheet 2 of 3, dated July 1991.

The map is on file and available for inspection in the office of the Land Resources Division Mid-Atlantic Region, National Park Service, 143 South Third Street, Philadelphia, Pennsylvania 19106 and in the office of the National Park Service, Department of the Interior, 18th and C Streets, Washington, DC 20240.

Dated: August 8, 1991.

Gerald D. Patten,

Regional Director, North Atlantic Region.

[FR Doc. 91–27065 Filed 11–8–91; 8:45 am]

BILLING CODE 4310–70–M

Jimmy Carter National Historic Site; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Jimmy Carter National Historic Site Advisory Commission will be held at 8:30 a.m. to 4 p.m. at the following location and date.

DATES: November 22, 1991.

ADDRESSES: Windsor Hotel, Conference Room, Windsor Avenue, Americus, Georgia 31709.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Boyles, Superintendent, Jimmy Carter National Historic Site, Route 1, Box 800, Andersonville, Georgia 31711.

SUPPLEMENTARY INFORMATION: The purpose of the Jimmy Carter National Historic Site Advisory Commission is to advise the Secretary of the Interior or his designee on achieving balanced and accurate interpretation of the Jimmy Carter National Historic Site.

The members of the Advisory Commission are as follows:

Professor Steven Hochman
Professor James S. Young
Professor Donald B. Schewe
Dr. Henry King Stanford
Professor James David Barber, Director, National Park Service, Ex-Officio Member

The matters to be discussed at this meeting include the status of park development and planning activities. This meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the commission a written statement concerning the matters to be discussed.

Written statements may also be submitted to the Superintendent at the address above. Minutes of the meeting will be available at Park Headquarters for public inspection approximately 4 weeks after the meeting.

Dated: November 1, 1991.

James W. Coleman, Jr.,

Regional Director, Southeast Region.

[FR Doc. 91–27135 Filed 11–8–91; 8:45 am]

BILLING CODE 4310–70–M

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 30, 1991. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington DC 20013–7127. Written comments should be submitted by November 27, 1991.

Carol D. Shull,

Chief of Registration, National Register.

CALIFORNIA

Imperial County

US Inspection Station, 12 Heffernan Ave., Calexico, 91001749

San Diego County

US Inspection Station, CA 188, Tecate, 91001748

CONNECTICUT

Litchfield County

Skilton Road Bridge, Skilton Rd. over the Nonewaug R., Watertown, 91001744
Warren Congregational Church, 4 Sackett Hill Rd., Warren, 91001743

Windham County

Wylie School, Jct. of Ekonk Hill and Wylie School Rds., Voluntown, 91001742

KANSAS

Sedgwick County

Stackman Court Apartments, 1207 Franklin Ave., Wichita, 91001741

NEBRASKA

Boyd County

SS Peter & Paul Catholic School, Jct. of 2nd and Broadway Sts., SE corner, Butte, 91001751

Cherry County

US Post Office—Valentine (Nebraska Post Offices Which Contain Section Artwork MPS). 348 N. Main St., Valentine, 91001750

Fillmore County

Belle Prairie Township Hall & Strang Town Hall—Jail, Main St., Strang, 91001752
Strang School District No. 36, Main St., Strang, 91001753

Hamilton County

Streeter—Peterson House, 1121 9th St., Aurora, 91001754

NORTH CAROLINA

Alamance County

Woodlawn School, N side NC 1921 0.15 mi. W of jct. with NC 1920, Mebane vicinity, 91001745

Davidson County

Smith Clinic, 17 Randolph St., Thomasville, 91001746

Forsyth County

Winston-Salem Southbound Railway Freight Warehouse and Office, 300 S. Liberty St., Winston-Salem, 91001747

PENNSYLVANIA

Dauphin County

Harrisburg Military Post (Pennsylvania National Guard Armories MPS), Jct. of 14th and Calder Sts., Harrisburg, 91001755

Montgomery County

High Street Historic District, 631—1329 High St., Pottstown, 91001756

A proposed move is being considered for the following property; to assist in its preservation, the commenting period is being waived:

INDIANA

Scott County

Scottsburg Depot, 43 S. Railroad St., Scottsburg, 91001162

The name of the following property was listed incorrectly on the list dated October 22, 1991:

LOUISIANA

Beauregard County

First United Methodist Church, Jct. of Pine and N. Port Sts., DeRidder, 91001659

[FR Doc. 91-27051 Filed 11-8-91; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-12 (Sub-No. 137X)]

Southern Pacific Transportation Co.—Abandonment and Discontinuance of Trackage Rights Exemption—in San Francisco County, CA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903–10904 Southern Pacific Transportation Company's: (1) Abandonment of approximately 1.94 miles of railroad extending (a) between mileposts 1.27 and 1.88, (b) between mileposts 2.16 and 2.19, and (c) between mileposts 1.51 and 2.81, together with parallel track along Florida Street, in the City and County of San Francisco, CA; and (2) discontinuance of trackage rights over approximately 0.28 mile of rail line between mileposts 1.88 and 2.16, in the City and County of San Francisco, CA, subject to standard labor protective conditions, an historic preservation condition, and a salvage condition.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on December 12, 1991. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by November 22, 1991, petitions to stay must be filed by November 27, 1991, and petitions for reconsideration must be filed by December 9, 1991. Requests for a public use condition must be filed by November 22, 1991.

ADDRESSES: Send pleadings referring to Docket No. AB-12 (Sub-No. 137X) to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423 and (2) Petitioner's representative: Gary A. Laakso, Southern Pacific Building, One Market Place, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. [TDD for hearing impaired: (202) 275–1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275–1721].

Decided: October 29, 1991.

By the Commission, Chairman Philbin, Vice Chairman Emmett, Commissioners Simmons, Phillips, and McDonald.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-27087 Filed 11-8-91; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Ms. Lin Liu on (202) 395–7340 *AND* to the Department of Justice's Clearance Officer, Mr. Lewis Arnold, on (202) 514–4305. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer *AND* the DOJ Clearance Officer of your intent as soon as possible.

Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20530, *AND* to Mr. Lewis Arnold, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

Revision of a Currently Approved Collection

(1) National Prisoner Statistics.

(2) NPS–1, Office of Justice Programs, Bureau of Justice Statistics.

(3) Annually.

(4) State or local governments, Federal agencies or employees. This information collection is used to provide annual summary measures on persons confined in the Nation's correctional institutions, as well as data of prison capacity, AIDS testing and numbers of inmates with AIDS at yearend. The data will form the basis for historical trend analysis. Respondents are personnel in the State

[1] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

Departments of Corrections, the District of Columbia and the Federal Bureau of Prisons.

(5) 52 annual respondents at 6.5 hours per response.

(6) 338 annual burden hours.

(7) Not applicable under 3504(h).

Public comment on this item is encouraged.

Dated: November 6, 1991.

Lewis Arnold,

Department Clearance Officer, Department of Justice.

[FR Doc. 91-27061 Filed 11-8-91; 8:45 am]

BILLING CODE 4410-18-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application, Eli Lilly Industries, Inc.

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on July 8, 1991, Eli Lilly Industries, Inc., Chemical Plant, kilometer 146.7, State road 2, Mayaguez, Puerto Rico 00708, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance dextropropoxyphene, bulk (non-dosage forms) (9273).

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, attention: DEA Federal Register Representative (CCR), and must be filed no later than December 12, 1991.

Dated: October 31, 1991.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 91-27041 Filed 11-8-91; 8:45 am]

BILLING CODE 4410-09-M

Importation of Controlled Substances; Application, North Pacific Trading Co.

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedules I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on July 12, 1991, North Pacific Trading Company, 1505 SE. Gideon Street, Portland, Oregon 97202, made application to the Drug Enforcement Administration to be registered as an importer of Marihuana (7360) a basic class of controlled substance in Schedule I. This application is exclusively for the importation of marijuana seed which will be rendered non-viable and used as bird feed.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, attention: DEA Federal Register Representative (CCR), and must be filed no later than December 12, 1991.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e) and (f) are satisfied.

Dated: November 4, 1991.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 91-27042 Filed 11-8-91; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application, Orpharm, Inc.

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on August 9, 1991, Orpharm, Inc., 722 West 19th Street, Houston, Texas 77008, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Alphacetylmethadol (9603)	I
Methadone (9250)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, attention: DEA Federal Register Representative (CCR), and must be filed no later than December 12, 1991.

Dated: October 31, 1991.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 91-27043 Filed 11-8-91; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL SCIENCE FOUNDATION

Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Public Law 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

SUPPLEMENTARY INFORMATION: On September 30, 1991, the National Science Foundation published notice in the **Federal Register** of permit applications received. Permits were issued to the following individuals on November 4, 1991: Rennie S. Holt, Diane McKnight.

Charles E. Myers,

Permit Office, Division of Polar Programs.

[FR Doc. 91-27120 Filed 11-8-91; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. Type of submission, new revision, or extension: Revision.

2. The title of the information collection:

10 CFR Part 20—Standards for Protection Against Radiation.

10 CFR Part 19—Notices, Instructions, and Reports to Workers; Inspections.

3. The form number if applicable: Not applicable.

4. How often the collection is required:

Part 20: Annually or upon the occurrence of reportable accident.

Part 19: Annually or upon termination.

5. Who will be required or asked to report: Holders or NRC licenses to receive title to, own, acquire, deliver, receive, possess, use, and initially transfer special nuclear material and design, build or operate production and utilization facilities.

7. An estimate of the total number of responses:

Part 20: 1,463

Part 19: 700,000

8. An estimate of the total number of hours needed to complete the requirement or request:

Part 20: Approximately 161 hours per response. The total industry burden is 235,705 hours.

Part 19: Approximately .05 hours per response. The total industry burden is 35,000 hours.

9. Abstract: 10 CFR part 20 establishes standards for protection against ionizing radiation resulting from activities conducted under licenses issued by the NRC. These standards in part require the establishment of radiation protection programs, the maintenance of radiation records, the recording of radiation received by workers, the reporting of incidents which could cause exposure to radiation, and the submittal of an annual report to NRC of the results of individual monitoring.

The amendment to 10 CFR Part 19 requires licensees to advise workers of their dose annually and to provide them with a written report of their dose during the current year upon termination of employment.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW. (lower level), Washington, DC.

Comments and questions can be directed by mail to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs, (3150-0014 and 3150-0044), NEOB-3019, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395-3084.

The NRC Clearance Officer is Brenda J. Shelton, (301) 492-8132.

Dated at Bethesda, Maryland this 31st day of October 1991.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 91-27112 Filed 11-8-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

GPU Nuclear Corp. and Jersey Central Power & Light Co., Oyster Creek Nuclear Generating Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of section III.G of appendix R to 10 CFR part 50 to GPU Nuclear Corporation, et al. (the licensee) for the Oyster Creek Nuclear Generating Station, located at the licensee's site in Ocean County, New Jersey.

Environmental Assessment

Identification of Proposed Action

The licensee is requesting an exemption from the requirements of section III.G of 10 CFR part 50, appendix R "Fire Protection of Safe Shutdown Capability." Specifically, the licensee requested an exemption from section III.G.2.c. The licensee requested not to provide a one hour rated fire barrier for the power cable associated with the IC-B condensate return valve V-14-37 located in the fire area RB-FZ-1D on elevation 51'-3" in the reactor building. The licensee's request and bases for exemption are contained in a letter dated May 17, 1991.

The Need for the Proposed Action

The exemption is needed because strict compliance with the regulation would require further modification to provide a one hour fire barrier for a portion of the cable in the southeast corner of the reactor building at elevation 51'-3". This would result in undue hardship and additional costs would not be justified by the insignificant increase in safety.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed exemption from the requirement of section III.G.2.c of appendix R to 10 CFR part 50 to not provide a one hour rated fire barrier for the power cable associated with IC-B condensate return valve V-14-37 located in the fire area RB-FZ-1D on elevation 51'-3" in the reactor building.

Based on its review of the information presented, the Commission finds that a single fire in fire zone RB-FZ-1D is not likely to cause valve V-14-37 to close and cause loss of ability to reopen the valve because of: (1) Low combustible fuel loading in the zone, (2) automatic and manual fire suppression and automatic fire detection capability in the fire zone, (3) necessity to damage the Isolation Condenser B (IC-B) high flow logic circuit and then power cable 12GP0816 in that sequence, and (4) location of the IC-B high flow logic circuit and power cable 12GP0816 in diagonal corners of fire zone RB-FZ-1D, separated from each other by approximately 92 feet and by the drywell structure and various non-fire rated compartment walls. On this basis, we conclude that the combination of specific damage and sequence of events is so remote that a fire would not have any effect on the plant's ability to achieve safe shutdown. Therefore, the proposed exemption does not increase

the probability or consequences of accidents, no changes are being made in the types of effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational exposure. Accordingly, the Commission concludes that this proposed exemption would result in no significant radiological environmental impact.

With regard to nonradiological impacts, the proposed exemption from the requirements of section III.G of appendix R to 10 CFR part 50 involves components which are located within the restricted area as defined in 10 CFR part 50. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's request that supports the proposed exemption. The staff did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concluded that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the request for exemption dated May 17, 1991. Copies of the request for exemption are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at the Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

Dated at Rockville, Maryland, this 4th day of November 1991.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91–27113 Filed 11–8–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–354]

Public Service Electric & Gas Co. and Atlantic City Electric Co. Hope Creek Generating Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–57, issued to Public Service Electric and Gas Company and the Atlantic City Electric Company (the licensees) for operation of the Hope Creek Generating Station, located at the licensees' site in Salem County, New Jersey.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would separate the surveillance requirements (Surveillance 4.8.1.1.2.g) associated with the buried fuel oil transfer piping's cathodic protection system from those used to determine diesel generator operability.

The proposed action is in accordance with the licensees' application for amendment dated October 10, 1991.

The Need for the Proposed Action

Technical Specification (TS) 4.8.1.1.2 delineates surveillance requirements that are to be performed to demonstrate operability of the Diesel Generators. TS 4.8.1.1.2.g delineates the surveillance requirements necessary to verify that the impressed current cathodic protection system for the buried portion of the fuel oil transfer piping is operable. Since this surveillance requirement is currently a sub-item of TS 4.8.1.1.2, literal interpretation of the TS could preclude maintenance on the cathodic protection system (if that maintenance requires that the system be made inoperable) and/or potentially result in a station shutdown due to failure of the cathodic protection system causing all of the Diesel Generators to be declared inoperable.

Environmental Impacts of the Proposed Action

The cathodic protection system was installed by the licensees to protect the buried fuel oil transfer piping from external corrosion. Installation and testing of this system is required by Regulatory Guide 1.137 (Revision 1, October 1979). The licensees have proposed removing the cathodic protection system surveillance requirements from TS 4.8.1.1.2 and creating a separate TS (TS 4.8.1.1.4) to verify the operability of the cathodic protection system. Additionally, the licensees proposed to create a new action statement (TS 3.8.1.1.h) to delineate the actions necessary if the cathodic protection system is inoperable for more than thirty days.

The buried portion of the fuel oil transfer piping is provided to allow for convenient loading of diesel fuel at a truck/barge fill connection outside the restricted area. The buried portion of the transfer piping is not safety-related (as stated in UFSAR section 9.5.4) since an emergency fill connection is provided inside the diesel building, which can be isolated from the buried portion of the fill piping by an isolation valve located inside the diesel building. This emergency fill connection provides a protected fill path to the Diesel Generator Fuel oil storage tanks. This amendment would not eliminate the requirement to have the cathodic protection system installed and the licensees will still fully comply with Regulatory Guide 1.137. This amendment would separate the surveillance requirements of the cathodic protection system from those surveillances directly related to Diesel Generator operability. This amendment would also allow the cathodic protection system to be inoperable for thirty days. This would allow the licensees a reasonable time period to restore the system to operation if maintenance is necessary on the system. The buried fuel oil transfer system is not used to mitigate the consequences of any previously analyzed accident. Therefore, the proposed amendment would not significantly increase the probability or consequences of any accidents previously analyzed. No significant changes in the types or amounts of radiological effluents, during normal operation or postulated accidents, that may be released offsite are incurred by this proposed amendment. As a result, no significant increase in the individual or cumulative occupational radiation exposure is noted.

Therefore, because the proposed changes do not increase the probability or consequences of accidents, no changes are being made in the types or amounts of any radiological effluents that may be released offsite and there is no significant increase in the allowable

individual or cumulative occupational radiation exposure, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed change to the TS would allow the licensees to disconnect the cathodic protection system for a thirty day period. If the cathodic protection system is inoperable for greater than thirty days the licensees must submit a special report to the NRC outlining the cause of the malfunction and the licensees' plans for restoring the system. Since the cathodic protection system is designed to limit external corrosion to the buried piping over long periods of time, a thirty day period without the cathodic protection system operating will not result in any appreciable corrosive degradation of the buried piping. In addition to the cathodic protection system the piping has a protective coating to limit external corrosion.

Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendments.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the "Final Environmental Statement Related to the Operation of Hope Creek Generating Station," dated December 1984.

Agencies and Persons Consulted

The NRC staff reviewed the licensees' request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based on the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated October 10, 1991, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555 and at the Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070.

Dated at Rockville, Maryland, this 4th day of November 1991.

For the Nuclear Regulatory Commission.

Chalres L. Miller,

Director, Project Directorate I-2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91-27114 Filed 11-8-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District, Rancho Seco Nuclear Generating Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.75(e)(1)(ii) to the Sacramento Municipal Utility District (SMUD or the licensee) for the Rancho Seco Nuclear Generating Station (Rancho Seco or the facility) located in Sacramento County, California.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an exemption from the requirement to have full decommissioning funding sufficient to pay decommissioning costs at the time termination of operation is expected.

The Need for the Proposed Action

The decommissioning funding requirements of 10 CFR 50.75(e) were designed to provide reasonable assurance that at the time of permanent end of operations sufficient funds are available to decommission the facility in a manner which protects public health and safety.

The staff believed that requiring prematurely shut down plants (ones after July 27, 1988) to comply fully with the 10 CFR 50.75(e) regulations might impose a severe financial burden on these plants since they have not operated long enough to have accumulated sufficient funds for decommissioning. Therefore, based on this concern, the staff was instructed by the Commission to determine the appropriate accumulation period for decommissioning funds on a "case-by-case" basis for those plants which prematurely shut down after July 27, 1988.

The licensee's proposed financial assurance plan, which includes an initial deposit of $90 million in an external decommissioning trust and periodic payments throughout the SAFSTOR period coupled with (1) their financial stability; (2) their long history of decommissioning fund payments; (3) their rate regulatory function; and (4) other legal obligations to decommission Rancho Seco, meets the intent of the regulations in 10 CFR 50.75(e)(1)(ii).

Environmental Impacts of the Proposed Action

The proposed exemption does not adversely impact the ability of SMUD to provide adequate assurance that funds will be available to decommission the Rancho Seco facility. The licensee's financial assurance plan provides adequate assurances that funds will be available to decommission Rancho Seco while protecting the public health and safety. Therefore, the Commission concludes that there are no measurable environmental impacts associated with the proposed exemption.

Since the Commission has concluded that there are no measurable environmental impacts associated with the proposed exemption, any alternative will have either no environmental impact or a greater environmental impact. The principal alternative to the exemption would be to require full compliance with the decommissioning funding regulations. Such action would not enhance the protection of the environment and would result in unnecessary expenditure of licensee funds.

Alternate Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement for the Rancho Seco Nuclear Generating Station.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment. Therefore, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the licensee's letter dated July 24, 1990, and supplemented by letters dated March 26, 1991, and July 19, 1991, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Martin Luther King Regional Library, 7340 24th Street Bypass, Sacramento, California 95822.

Dated at Rockville, Maryland this 4th day of November 1991.

For the Nuclear Regulatory Commission.

Marvin M. Mendonca,

Acting Director, Non-Power Reactors, Decommissioning and Environmental Project Directorate, Division of Advanced Reactors and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 91-27115 Filed 11-8-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., Crystal River Unit 3 Nuclear Generating Plant; Issuance of Director's Decision

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has taken action regarding a Petition for action under 10 CFR 2.206 received from Mr. Louis D. Putney, filed on behalf of his client, Edward S. Wollensen, regarding the Crystal River Unit 3 Nuclear Generating Plant (CR-3). Petitioner requested the U.S. Nuclear Regulatory Commission (NRC) to suspend or revoke the operating license for CR-3 or to take such other action as may be appropriate. The Notice of Receipt of Petition for Director's Decision under 10 CFR 2.206 was published in the **Federal Register** on August 7, 1991 (56 FR 37601).

The Director of the Office of Nuclear Reactor Regulation has determined that the Petition should be denied for the reasons explained in the "Director's Decision under 10 CFR 2.206" (DD-91-6), which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room for the Crystal River facility located at the Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629.

A copy of the decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided by this regulation, the decision will constitute the final action of the Commission 25 days after the date of the issuance of the decision, unless the Commission on its own motion institutes a review of the decision within that time.

Dated at Rockville, Maryland this 3rd day of November, 1991.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 91-27116 Filed 11-8-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-250 and 50-251]

Florida Power & Light Co.; Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License No. DPR-31 and Facility Operating License No. DPR-41, issued to Florida Power and Light Company (the licensee), for operation of the Turkey Point Plant, Units 3 and 4, respectively located in Dade County, Florida.

The proposed amendment would modify Technical Specifications (TS) 3.2.1 to allow operation with the axial flux difference (AFD) outside the ± 5% target band without accruing penalty deviation time, solely for the purpose of calibrating the excore detectors, provided the AFD is within the acceptable operation limits of TS Figure 3.2-1.

These amendments are being processed on an exigent basis, in accordance with 10 CFR 50.91(a)(6). The basis for this request is that the surveillance of the excore detectors is performed quarterly, and the next surveillance of the excore detectors on Unit 3 is scheduled in January, 1992, thus providing inadequate time for the usual amendment process. The temporary waiver of compliance, which was granted by the NRC on October 30, 1991, in response to the FPL letter dated October 29, 1991, as revised October 30, 1991, permits Turkey Point to perform the necessary surveillance during restart from the outage and thus permits escalation of Unit 4 to 100% power.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) (Operation of the facility in accordance with its proposed amendments would not) involve a significant increase in the probability or consequences of an accident previously evaluated.

(These) proposed license amendment(s) (do) not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change does not affect any equipment whose malfunction is postulated to initiated an accident or prevent an accident from occuring. Changes in axial flux difference due to power changes and control rod motion, like that in the excore detector calibration, are part of normal and anticipated behavior. Therefore, this change does not cause a significant increase in the probability of occurrence of any previously evaluated accident.

Axial flux difference is used to assure that peaking factors and axial power distributions are within the limits used as input to various Condition II, III, and IV events. Analyses outside the AFD target band, but within the Accepted Operation Limits of Figure 3.2-1, for up to 1 hour, are included in the reload design and safety analyses. The proposed change permits operations outside of the AFD target band within the Accepted Operation Limits of Figure 3.2-1, for up to 16 hours while calibrating the excore detectors, rather than the 1 hour allowed during normal operation. Just as with Special Test Exceptions, Technical Specification 3/4.2.1 is less restrictive during excore calibration due to the low probability of accidents occurring during this calibration (which will be performed at less than equal to 90% power). Performance of this test at reduced power level and maintaining the Technical Specification requirements on rod insertion limits will not significantly increase the consequences of an accident previously evaluated.

(2) Create the Possibility of a new or different kind of accident from any accident from any accident previously evaluated.

The proposed license amendment(s) (do) not create the possibility of a new or different kind of accident from any accident previously evaluated. The amendment(s) (do) not change any plant equipment or operations. Therefore, no possibility of creating a new or different type of accident would result from (these) proposed license amendment(s).

(3) Involve a significant reduction in a margin of safety.

The proposed amendment(s) (do) not involve a significant reduction in the margin of safety. The consequences of core accidents are based on the limiting assumptions for the core peaking factors. No changes to the peaking factors are required to support this proposed license amendment[s]. The proposed change permits operation outside of the AFD target band, within the Accepted Operation Limits of Figure 3.2–1, for up to 16 hours while calibrating the excore detectors, rather than the 1 hour allowed during normal operation. Just as with Special Test Exceptions, Technical Specification 3/4.2.1 is less restrictive during excore calibration due to the low probability of accidents occuring during this calibration (which will be performed at less than or equal to 90% power). In addition, excore calibration is a controlled plant evolution with enhanced operator and Reactor Engineering oversight. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within fifteen (15) days after the date of publication of this notice will be considered in making any final determination.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Service, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By December 12, 1991, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which supports the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention mut be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendments are issued before the expiration of 30 days, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendments and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendments until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 15-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects

that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Herbert N. Berkow: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Harold F. Reis, Esquire, Newman and Holtzer, P.C. 1615 L Street NW., Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October 31, 1991, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room, located at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Dated at Rockville, Maryland, this 4th day of November, 1991.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91–27117 Filed 11–8–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 72–9 (50–267)]

Public Service Co. of Colorado; Issuance of Materials License SNM–2504, Fort St. Vrain Independent Spent Fuel Storage; Installation at the Fort St. Vrain Nuclear Generating Station

The U.S. Nuclear Regulatory Commission (the Commission) has issued a materials license under the provisions of title 10 of the Code of Federal Regulations, part 72 (10 CFR part 72), to Public Service Company of Colorado (PSC or the licensee), authorizing receipt and storage of spent fuel in an independent spent fuel storage installation (ISFSI) located onsite at its Fort St. Vrain (FSV) Nuclear Generating Station, Weld County, Colorado.

The function of the ISFSI is to provide interim storage for up to 1482 fuel elements (which includes standard fuel elements, control fuel elements, and bottom control fuel elements), 37 keyed-top reflector control rod elements, and 6 neutron source elements. Fuel elements are loaded into fuel storage containers (FSCs) within the FSV Nuclear Generating Station reactor building, and subsequently transported inside a transfer cask to the modular vault dry store (MVDS), where the FSCs are removed from the cask and lowered into shielded vault modules for storage. The MVDS is designed for 40-year interim storage of FSC high temperature gas-cooled reactor (HTGR) fuel in a contained, shielded system. The license for an ISFSI under 10 CFR part 72 is issued for 20 years, but the licensee may seek to renew the license, if necessary, prior to its expiration.

The NRC staff has completed its environmental, safeguards, and safety reviews in support of the issuance of this license. The Commission authorized issuance of this license pursuant to § 2.764(c) of 10 CFR part 2.

Following receipt of the application filed June 22, 1990, a Notice of Proposed Action was published in the Federal Register on August 29, 1990 (55 FR 35384). PSC partially relied on the topical report submitted by Foster Wheeler Energy Applications, Inc., "Topical Report for the Foster Wheeler Modular Vault Dry Store for Irradiated Nuclear Fuel," EA 86/20, Revision 1, dated October 1987, and on the NRC staff's safety review of this MVDS design, dated March 22, 1988. The "Environmental Assessment Related to the Construction and Operation of the Fort St. Vrain Independent Spent Fuel Storage Installation" (dated February 1991), along with a Finding of No Significant Impact was issued and noticed in the Federal Register (56 FR 5428, dated February 11, 1991) in accordance with 10 CFR part 51. The scope of the environmental assessment included the construction and operation of an ISFSI on the FSV site, including impacts specifically derived from the MVDS system to be used.

The staff has completed its safety review of the FSV ISFSI site application and safety analysis report. The FSV safety analysis report, as supplemented, included confirmation by the applicant that: (a) No technical specification changes are required, under the FSV possession-only license, to accommodate a 10 CFR part 72 license for onsite storage; (b) the joint operations of the reactor and the onsite ISFSI do not affect the safety margins of either one; (c) onsite storage is an independent operation, as defined in 10 CFR part 72; and (d) the eventual decommissioning of the FSV reactor and establishment of a stand-alone ISFSI will not result in a reduction in the margin of safety associated with the operation of the FSV ISFSI. The staff's "Safety Evaluation Report for Public Service Company of Colorado's Safety Analysis Report for Fort St. Vrain Independent Spent Fuel Storage Installation" was completed in October 1991.

Materials License SNM–2504, the staff's Environmental Assessment, Safety Evaluation Report, and other documents related to this action are available for public inspection and for copying or a fee at the NRC Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, and at the Local Public Document Room at the Weld County District Public Library, 23rd Avenue Branch, Greely, Colorado, 80631.

Dated at Rockville, Maryland, this 4th day of November 1991.

For the Nuclear Regulatory Commission.

Charles J. Haughney,

Chief, Fuel Cycle Safety Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 91–27118 Filed 11–8–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–259, 50–260, and 50–296]

Tennessee Valley Authority, Browns Ferry Nuclear Plant, Units 1, 2 and 3; Withdrawal of an Amendment Request to Facility Operating License

The U.S. Nuclear Regulatory Commission (NRC) has approved the withdrawal of a request by the Tennessee Valley Authority (TVA or the licensee) for an amendment to Facility

Operating License Nos. DPR–33, DPR–52, and DPR–68, issued to the Browns Ferry Nuclear Plant (BFNP), Units 1, 2 and 3, respectively. The plant is located in Limestone County, Alabama. Notice of Consideration of issuance of this amendment was published in the **Federal Register** on May 21, 1985 (50 FR 20993).

The licensee amendment being withdrawn was originally submitted by TVA in letters dated August 14, 1984, September 21, 1984, and April 12, 1985. The licensee had proposed to incorporate its Integrated Living Schedule into the BFNP operating licenses. By letter dated September 20, 1991, TVA has withdrawn this license amendment request from further consideration by the NRC.

For further details with respect to this action, see (1) the license amendment applications and (2) the licensee's letter dated September 20, 1991.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L. Street NW., Washington, DC 20555 and at the Athens Public Library, South Street, Athens, Alabama 35611.

Dated at Rockville, Maryland this 4th day of November 1991.

For the Nuclear Regulatory Commission.

Thierry M. Ross,

Project Manager, Project Directorate II–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91–27119 Filed 11–8–91; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Notice of Meeting

The Office of Personnel Management announces the following meeting:

NAME: Pay-for-Performance Labor-Management Committee Meeting.

DATE AND TIME: November 15, 1991, 9 a.m. to 5 p.m.

PLACE: Room 1350, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415–0001.

TYPE OF MEETING: Open.

POINT OF CONTACT: Ms. Doris Hausser, Chief of the Performance Management Division, room 7454, Office of Personnel Management, 1900 E Street NW., Washington DC 20415–0001.

PURPOSE OF MEETING: To consider ways to strengthen the linkage between performance of General Schedule employees and their pay.

AGENDA: Committee goals and objectives; basic issues and challenges facing the committee; committee administration; comments and observations; public input; closing.

SUPPLEMENTARY INFORMATION: At its November 1, 1991, meeting (notice published in the **Federal Register** on August 28, 1991), the committee determined that it needs more time to conclude its deliberations and to ensure that all views are clearly and adequately expressed. Therefore, the committee has scheduled an additional meeting for November 15, 1991.

The committee welcomes written data, views, or comments concerning systems for managing and recognizing the performance of Federal managers. All such submissions received by close of business (COB) on November 13, 1991, will be provided to the committee members and included in the record of the meeting. If time permits, the committee will consider oral presentations relating to agenda items. Persons wishing to address the committee orally at a meeting should submit a written request to be heard by the deadline listed above. The request must include the name and address of the person wishing to appear, the capacity in which the appearance will be made, a short summary of the intended presentation, and an estimate of the amount of time needed.

All communications regarding this committee should be addressed to the Point of Contact named above.

Constance Berry Newman,

Director, Office of Personnel Management.

[FR Doc. 91–27060 Filed 11–8–91; 8:45 am]

BILLING CODE 6325–01–M

OVERSIGHT BOARD

Oversight Board Meeting

AGENCY: Oversight Board.

ACTION: Meeting.

DATES: Wednesday, November 20, 1991, 3 to 4 p.m.

ADDRESSES: Internal Revenue Service, 1111 Constitution Ave., NW., room 3313, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brian Harrington, Press Officer, Office of Public Affairs, 1777 F Street, NW., Washington, DC 20232, (202) 786–9672.

SUPPLEMENTARY INFORMATION: Discussion Agenda:

- RTC Update.
- National Advisory Board Recommendations.
- Other agenda items to be determined. Closed session to follow.

Dated: November 6, 1991.

Jill Nevius,

Committee Management Officer.

[FR Doc. 91–27103 Filed 11–8–91; 8:45 am]

BILLING CODE 2222–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–29903; File No. SR-CSE-91–5]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Cincinnati Stock Exchange, Inc., Relating to Administration of Requests for Extensions of Time Under Regulation T and Rule 15c3–3

November 5, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 19, 1991, the Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The CSE submitted Amendment No. 1 to the proposed rule change on October 30, 1991.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CSE proposes to amend its Rule 6.1 to clarify the Exchange staff's authority to grant extensions of time on payment/delivery of securities pursuant to Federal Reserve Board ("FRB") Regulation T and Rule 15c3–3 under the Act ("SEC Rule 15c3–3").[2]

[1] Amendment No. 1 requests that the Commission grant approval to the proposed rule change within 35 days of the date of publication in the **Federal Register** of notice of filing pursuant to section 19(b)(2)(A) under the Act. The CSE originally filed the proposed rule change to take effect upon filing pursuant to section 19(b)(3)(A). The amendment does not change the substance of the proposed change to the CSE's rules allowing the granting of extensions of time for payment/delivery of securities.

[2] Regulation T, issued by the Board of Governors of the Federal Reserve System pursuant to the Act, governs the extension of credit to customers by broker-dealers for purchasing securities. 12 CFR part 220. Rule 15c3–3 governs the extension of credit for selling securities. 17 CFR 240.15c3–3. Under Regulation T (12 CFR 220.8(d) and .4(c)(3)(ii)) and Rule 15c3–3(n), a broker-dealer may request an extension of time for payment or delivery of securities from any registered national securities exchange or a registered national securities association.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Currently, the Exchange's only rule explicitly addressing extensions of time for payment/delivery of securities is Rule 6.1(b), which addresses them only in connection with margin requirements. This Rule makes no mention of extensions the Exchange is authorized to grant under Commission Rule 15c3–3, and refers to the authority of the Exchange's Business Conduct Committee to grant extensions, despite the Exchange's long-standing practice of daily extension-processing by the Exchange staff.

Specifically, the CSE proposes to add to Rule 6.1(b) citations to §§ 220.8(d) and 220.4(c)(3)(ii) under Regulation T, which provide that a broker-dealer may request an extension of time for payment or delivery of securities from any registered national securities exchange or a registered national securities association, and to SEC Rule 15c3–3, which governs the extension of credit for selling securities.[3]

The proposed rule change would ensure that Rule 6.1(b) addresses extensions comprehensively, accurately, and in accord with current law and practice.

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and a national market system.

[3] In addition, the CSE proposes to delete references to §§ 220.3(f) (exchange of securities) and 220.4(c)(6) (not an existing section) of Regulation T and to change the title of Rule 6.1 from Margin Accounts to Extensions of Credit.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CSE. All submissions should refer to File No. SR-CSE–91–5 and should be submitted by December 3, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–27094 Filed 11–8–91; 8:45 am]

BILLING CODE 8010–01–M

[(Release No. 34–29896; File No. SR–NASD–91–33) (International Series Release No. 337)]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to Amendments to the Uniform Application for Securities Industry Registration or Transfer, Form U–4 and to the Uniform Termination Notice for Securities Industry Registration, Form U–5

November 4, 1991.

I. Introduction

The National Association of Securities Dealers, Inc. ("NASD") submitted on July 23, 1991, a proposed rule change pursuant to section 19(b)(1) [1] of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 [2] thereunder, to amend the Uniform Application for Securities Industry Registration or Transfer, Form U–4 and the Uniform Termination Notice for Securities Industry Registration, Form U–5. The proposed changes to Form U–4 and Form U–5 are the result of the enactment of the Securities Acts Amendments of 1990 [3] and the Securities Enforcement Remedies and Penny Stock Reform Act of 1990 ("Remedies Act").[4] Certain minor changes were also requested by the Commodity Futures Trading Commission ("CFTC") and the National Futures Association ("NFA").

Notice of the proposed rule change together with the terms of substance of the proposal was provided by the issuance of a Commission release (Securities Exchange Act Release No. 29711, September 20, 1991) and by publication in the **Federal Register**, (56 FR 49501, September 30, 1991). The Commission did not receive any comments on the proposed rule change in response to its solicitation of comments. This order approves SR–NASD–91–33 as proposed.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1989).

[3] Pub. L. No. 101–550, 104 Stat. 2713 (November 15, 1990).

[4] Pub. L. No. 101–429, 104 Stat. 931 (October 15, 1990).

II. Legislative Developments

The proposed amendments are responsive to several provisions in the aforementioned new laws. In particular, the amendments reflect the enactment of the International Securities Enforcement Cooperation Act of 1990 ("ISECA"),[5] title II of the Securities Acts Amendments of 1990. This legislation was passed in order to enhance the ability of the Commission and the SROs to consider disciplinary actions taken against securities professionals by foreign regulators.

Specifically, the ISECA amended the Act to give the Commission the explicit authority to bar, suspend, or restrict the activities of broker-dealers and persons associated or seeking to become associated with a broker-dealer, based upon the findings of a foreign court or a foreign securities authority. For example, under section 15(b)(4)(B) of the Act, the Commission has the authority to censure, place limitations on the activities of, or suspend or revoke the registration of, a broker-dealer if it finds that such action is in the public interest and that the broker-dealer, or any person associated with the broker-dealer has been convicted within the past ten years of certain enumerated felonies and misdemeanors. The ISECA amended section 15(b)(4) to add any foreign offense that is substantially equivalent to the domestic offenses listed in that section, regardless of its denomination under the laws of a foreign government.[6]

Similarly, the ISECA strengthened the ability of SROs to consider foreign disciplinary actions. Section 3(a)(39) of the Act was amended to include foreign offenses committed by broker-dealers. That section provides that a person is subject to "statutory disqualification" from membership in, or association with a member of, an SRO if such person has been found to have been involved in certain illegal activities or misconduct, or has been convicted of any felony or misdemeanor enumerated in section 15(b)(4) of the Act.[7] Section 3 of ISECA amended Section 3(a)(39) by expanding this list to include, *inter alia*, expulsion or suspension from membership or association with a member of a foreign equivalent of an SRO, a foreign or international securities exchange, or a foreign contract market, board of trade or futures association, as well as findings by a foreign financial regulatory authority (or similar authority empowered to enforce laws relating to financial transactions) of illegal or improper conduct.

Additionally, the proposed changes to Forms U–4 and U–5 respond to the enactment of the Remedies Act which provided the Commission with additional enforcement powers. In general, the Remedies Act gave the Commission the authority to seek civil monetary penalties in court proceedings and to impose monetary penalties and order disgorgement in administrative proceedings. The Remedies Act also provided the Commission with both temporary and permanent cease and desist authority to prevent violations of securities laws. To accommodate these new laws, the NASD has proposed the amendments discussed herein to Forms U–4 and U–5.

III. Proposed Amendments

1. Form U–4

Page 1—A minor change was made to the explanation for the Series 3 and Series 5 exams by adding the word "examination." This change was requested by the NFA for the Series 3 to alleviate confusion among applicants as to why the box should be checked since it does not reflect a category of registration, rather, it reflects an exam request. Since the same situation was true for the Series 5, the word "examination" was added to that line as well.

Page 3—Page 3 contains several changes to the disciplinary questions which respond to the Securities Acts Amendments of 1990. These changes reflect the fact that certain actions taken by foreign financial regulatory authorities are now designated as statutory disqualifications under the Act. In accord with this new law, the definition of foreign financial regulatory authority has been added to the form and language reflecting this change in the law has been inserted in certain questions under Item 22, where appropriate. For example, in addition to disclosing domestic felony convictions and certain misdemeanor convictions involving fraud or investment related activities, Item 22A will require disclosure of foreign convictions of that nature as well.

Item 22D5 has been added to page 3 of Form U–4 to reflect the additional enforcement powers that were granted the Commission under the Remedies Act. This item now requires applicants to report civil monetary penalties and cease and desist orders entered by the SEC or the CFTC.

Page 4—Page four contains minor changes regarding the firm's certification. The last sentence on page 4 certifies that the firm has communicated with the employee's previous employers for the past three years. Formerly, the CFTC had a five-year rule, which was noted in parentheses following this sentence. However, the CFTC has recently changed that requirement and now requires employment verification for three years; accordingly, the clause relating to commodities has been deleted.

2. Form U–5

Form U–5 has been modified such that the instructions and form itself include changes to the disciplinary questions consistent with Form U–4. For example, Item 13 on Form U–5 as amended will require employers, upon termination, to disclose any disciplinary action taken by a foreign governmental body or self-regulatory organization with jurisdiction over investment-related business while the registrant was employed or associated with the firm, in addition to domestic disciplinary actions as previously required. Finally, an optional certification section has been added to this form so that previously filed information does not have to be filed on subsequent forms.

IV. Conclusion

Having carefully considered the proposed amendments to Forms U–4 and U–5, the Commission believes the amendments are consistent with and will help implement the Securities Acts Amendments of 1990 and the Remedies Act. Recognition of disciplinary actions taken by foreign financial regulators serves to facilitate cooperation between the United States and foreign countries in securities law enforcement. While there is today no global regulatory

[5] Pub. L. No. 101–550 sections 201–207, 104 Stat. 2713 (November 15, 1990).

[6] Among the felonies and misdemeanors listed in section 15(b)(4) of the Act, 15 U.S.C. 78*o*(b)(4), are: Convictions involving the sale of securities, the taking of false oaths, the making of a false report, bribery, perjury, burglary, or conspiracy to commit any such offense; unlawful activities that arise out of the securities, banking, commodities and insurance business; larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion or misappropriation of funds or securities; and mail fraud.

[7] 15 U.S.C. 78c(a)(39). Section 3(a)(39) of the Act generally provides that a person is subject to a "statutory disqualification" if among other things, that person: has been expelled or suspended from membership in an SRO or barred or suspended from association with an SRO member; has had his or her registration or association denied or suspended by the Commission or other appropriate regulatory agency; has willfully violated the federal securities laws or aided, abetted, or counselled others to do so; is permanently or temporarily enjoined by a court from acting in any capacity within the securities industry; has willfully made or caused to be made a false or misleading statement of material fact in filings required by the SROs; or has been convicted of any felony within the past ten years.

structure to oversee the markets and coordinate harmonization of laws and regulations to ensure efficiency and honesty, the Commission has strived to work with its foreign counterparts to assure fairer as well as more efficient market operations across borders.

Inasmuch as the NASD has proposed amendments to Form U–4 and U–5 which require disclosure of disciplinary actions by a foreign court or foreign securities authorities, the Commission believes the NASD has taken vital steps to strengthen its efforts as well as the Commission's efforts to support the international enforcement of securities laws. U.S. broker-dealers have increased significantly their activities in foreign markets. It stands to reason that the activities of foreign professionals in the U.S. markets also are likely to increase. As a result, the Commission and SROs are likely to confront a growing number of securities professionals who have been disciplined abroad for illegal or improper activities working or seeking to work in this country. Given the rapid movement towards internationalization of the securities markets, the proposed amendments will assist in protecting U.S. investors from securities professionals who have engaged in misconduct abroad.

Further, we believe the proposed amendments to Form U–4 which reflect the Commission's additional powers with respect to cease and desist authority and monetary penalties are both necessary and proper. Absent the proposed amendments, we believe the disclosure requirements for Form U–4 would be less than complete, as cease and desist orders entered against securities professionals and monetary penalties accessed by the Commission pursuant to its recent grant of authority could otherwise go unreported. The Commission is of the opinion that all disciplinary actions taken by it bear significantly on an applicant's fitness for securities industry registration and that the proposed amendments will ensure that the NASD's disclosure requirements embrace all of the Commission's enforcement remedies under existing law.

For the reasons discussed, the Commission believes the proposed rule change is consistent with section 15A(b)(6) under the Act, as amended. In pertinent part, section 15A(b)(6) mandates that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest, among other things. Further, the Commission believes the proposed rule change is a proper exercise of the NASD's authority to adopt appropriate qualification and registration requirements for persons associated with NASD members or applicants for NASD membership.

It is therefore Ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved. This rule change shall become effective within 45 days of this order.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Jonathan G. Katz,

Secretary.

[FR Doc. 91–27097 Filed 11–8–91; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–29900; File No. SR–NASD–91–51]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Extending the Hours of Operation for the SelectNet Service

November 4, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 3, 1991, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to extend the hours of operation for the SelectNet service to include two off-hours sessions—an after hours session following the close of normal market hours and a pre-opening session prior to the opening of normal market hours.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

SelectNet is a screen-based trading system offered to members of the NASD to facilitate negotiation of transactions in securities through automated means, by-passing the need for telephone contact. SelectNet allows members to enter orders, direct orders to one or all market makers in a security, and negotiate the terms of the orders though counter-offers entered into the system. The NASD is proposing to extend the hours of operation of the service from 9 a.m. to 5:15 p.m. Eastern Time.

The hours of operation for SelectNet will be extended to include a one-half hour pre-opening session (i.e., between 9 a.m. and 9:30 Eastern Time [1] and an after hours session extending from 4 p.m. until 5:15 p.m. Eastern Time. Members are currently able to enter day orders into SelectNet and will now be permitted to enter "end of day" as the appropriate time in force for any order. End of day orders will carry over into the after-hours session. In addition, members will also be able to enter new orders into the system after the close and prior to the opening of normal market hours. Therefore, SelectNet will offer live negotiation of trades after normal trading hours have ended and will commence live negotiation before the markets open at 9:30 a.m. Members using the SelectNet service after normal market hours will be able to reference on the Nasdaq Workstation™ screen the day's last sale for reported securities as well as the closing inside quotation (representing the last quotation when the market closed for the day) for any security quoted through NASDAQ.

SelectNet operational rules and procedures will continue to apply during the off-hours periods and the NASD also plans to maintain operational support and regulatory oversight of members using SelectNet during the off-hours sessions. Personnel in departments such as Market Surveillance, Market Operations and ACT (Automated Confirmation Transaction Service) Operations will be performing support and oversight functions similar to those

[1] If, however, normal market opening hours are changed to 9 a.m., SelectNet is anticipated to open at 8:30 a.m. Such a change in SelectNet hours will entail another 19b–4 filing with the Commission.

of normal market hours. For example, the SelectNet service is not available for orders in securities subject to a regulatory trading halt during normal market hours; this restriction will continue to apply off-hours. In addition, if news that would cause a regulatory trading halt during normal market hours is publicly disseminated after the close of normal market hours, SelectNet service for orders in those stocks will not be available.

Transactions in SelectNet occurring in the off-hours sessions will continue to be routed into the ACT service for trade reporting and submission to a clearing agency as locked-in-trades. Trade reports of transactions in reportable securities will be collected by ACT real-time, as trades occur, and will be disseminated as the trade reporting systems permit. For example, transactions taking place in the pre-opening session will be sent to the high speed tape and disseminated at market opening as trade reports with a special indicator, or marked ".SLD" so as not to confuse investors and market participants if the early session trade prices are out of range of market opening prices.[2] Trade reports of after-hours transactions will be designated "T" trades (or trades occurring outside of normal market hours) and input into the NASD's audit trail for regulatory purposes. In addition, volume from after-hours trades will be added to the daily volume statistics for NASDAQ securities.

Extending the hours of operation of SelectNet will facilitate investors that desire to trade in a regulated U.S. market and will provide an environment for broker/dealer members to accomplish lay-off or positioning trades outside of traditional market hours. Additionally, maintenance of SelectNet's trade negotiation features, with trade reporting and collection of regulatory information, will enable the NASD to capture real-time trade information as it occurs.

The NASD believes the proposed rule change is consistent with sections 15A(b)(6) and 11A(a)(1) (B) and (C) of the Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to "foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market." Section 11A states that "new data processing and communications techniques create the opportunity for more efficient and effective market operations" and also that it is in the public interest to assure "economically efficient execution of securities transactions." SelectNet is a communications service designed to accommodate efficient and economic executions of transactions in NASDAQ and CQS securities. SelectNet is a communications service designed to accommodate efficient and economic negotiations and executions, timely trade reporting, and locked-in-trades.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room.

Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by December 3, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Jonathan G. Katz,

Secretary.

[FR Doc. 91-27098 Filed 11-8-91; 8:45 am]

BILLING CODE 8010-01-M

[2] For purposes of Schedule D to the NASD-By-Laws, trade reports in NASDAQ securities for executions during the pre-opening session sent to the tape marked .SLD will not be considered as a pattern or practice of late trading, because the SelectNet system will capture the trade information as it occurs, and the system will send the trade reports marked late for dissemination purposes only.

[Release No. IC-18397; 812-7670]

Boston Financial Tax Credit Fund Plus, a Limited Partnership, et al.; Application

November 5, 1991.

AGENCY: Securities and Exchange Commission (the "SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

Applicants: Boston Financial Tax Credit Fund Plus, a Limited Partnership, a Massachusetts limited partnership (the "Partnership"), Arch Street VI, Inc., a Massachusetts corporation (the "Managing General Partner"), and Arch Street VI Limited Partnership, a Massachusetts limited partnership (together with the Managing General Partner, the "General Partners").

Relevant Act Sections: Exemption requested under sections 6(c) and 6(e) of the Act from all provisions of the Act, except sections 9, 17, 26(b), 36, and 37, to the extent specified in this notice, and, as necessary to implement the foregoing sections, sections 38 through 53 of the Act.

Summary of Application: Applicants seek a conditional order exempting the Partnership from all provisions of the Act, except as described in this notice. The order would permit the Partnership to invest in limited partnerships that engage in the ownership and operation of housing for low and moderate income persons and to invest 28% of the proceeds from the sale of class B limited partnership interests in United States Treasury obligations.

Filing Date: The application was filed on January 9, 1991, and amended on

October 11, 1991 and October 24, 1991. The application also will be amended during the notice period in accordance with the terms of letters from applicants' counsel dated October 29, 1991 and November 4, 1991, the substance of which are reflected herein.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 27, 1991, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, 101 Arch Street, Boston, Massachusetts 02210.

FOR FURTHER INFORMATION CONTACT: Elizabeth G. Osterman, Staff Attorney, at (202) 504–2524 or Nancy M. Rappa, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Partnership was organized on December 10, 1990, under the Uniform Limited Partnership Act of the Commonwealth of Massachusetts. The Partnership is intended to serve as a vehicle for equity investment in apartment complexes to be qualified, in the opinion of counsel, for the low income housing tax credit (the "Low Income Housing Credits") under the Internal Revenue Code of 1986, as amended ("Code").

2. The Partnership will offer two classes of limited partnership interests, Class A and Class B. It will operate as a "two-tier" entity, *i.e.*, the Partnership, as a limited partner, will invest in other limited partnerships ("Local Limited Partnerships") which, in turn, will engage in the development, rehabilitation, ownership, and operation of apartment complexes in accordance with the purposes and criteria set forth in Investment Company Act Release No. 8456 (August 9, 1974) ("Release No. 8456").

3. The Partnership also proposes to invest 28% of the proceeds from the sale of Class B limited partnership interests in United States Treasury obligations from which the coupons have been stripped and/or the coupons representing the right to receive a single fixed future payment separated from such obligations ("Treasury STRIPS").[1] It is the Partnership's intention to purchase either the principal component or an individual interest component of a Treasury bond at a purchase price of $280 to yield a single payment of $1,000 at the end of 13 to 18 years. For example, the Partnership might pay $280 for the principal component of a Treasury bond of $1,000 which matures on June 30, 2006, or it might pay $280 for one $1,000 quarterly or semi-annual interest component of a Treasury bond payable on June 30, 2006, either of which will provide the Partnership with a single fixed payment at a future date. Under either circumstance, other purchasers will own the right to collect the other interest payments and/or the principal payment which the Partnership has not acquired. The Partnership believes that the availability of the Class B limited partnership interests, by providing some liquidity and a hedge against fluctuations in the real estate market, should encourage investment in affordable housing.[2] The Treasury STRIPS will be acquired in the secondary market from unaffiliated broker-dealers at a trading price established in that market. They, and the proceeds on maturity, will be maintained in a custodial account that complies with the requirements of section 17(f) of the Act, and the regulations thereunder, until the proceeds are paid to the Partnership for distribution to the Class B limited partners. The Partnership will not trade, speculate in, or otherwise dispose of the Treasury STRIPS.

[1] Class B limited partners will receive 100% of the return from the Treasury STRIPS. Because 28% of the proceeds from the sale of Class B limited partnership interests will be used to purchase the Treasury STRIPS, however, Class B limited partners will receive, on a per Unit basis, only 72% of the return from the Local Limited Partnership interests.

[2] The Treasury STRIPS will be owned by the Partnership. Accordingly, the Partnership's creditors may reach the Treasury STRIPS to cover any unsatisfied obligations owed by the Partnership to them. As stated previously, however, the Partnership's primary business will be to invest as a limited partner in the Local Limited Partnerships. Under general principles of limited partnership law, the Partnership would not ordinarily be subject to the risks associated with the operations of the Local Limited Partnerships. Therefore, the Partnership should not have significant creditors because its operations will be conducted through the Local Limited Partnerships.

4. The Partnership's investment objectives are (a) to provide investors with annual tax credits that they may use to offset their Federal income tax liability, (b) to provide limited cash distributions from the operations of apartment complexes, (c) to preserve and protect the Partnership's capital with the possibility of realizing a profit through the sale or refinancing of apartment complexes, and (d) to provide payments to Class B limited partners from Treasury STRIPS.

5. On December 24, 1990, the Partnership filed a registration statement under the Securities Act of 1933 (the "Securities Act"), for the sale of up to 100,000 units of limited partnership interest ("Units") at $1,000 per Unit with a minimum subscription of five units ($5,000) per investor. The registration statement was amended April 1, July 16, and August 16, and September 17, 1991.

6. Subscription for Units must be approved by the Managing General Partner, and such approval will be made conditional upon representations as to suitability of the investment for each subscriber. The form of subscription agreement for Units provides that each subscriber will represent, among other things, that he meets the general investor suitability standards established by the Partnership and set forth in the prospectus under the heading "Who Should Invest." Units will be sold in certain states only to persons who meet additional or alternative standards that will be set forth in the prospectus, any supplement to the prospectus, or the subscription agreement: *Provided, however,* That in no event shall the Partnership employ any such suitability standard which his less restrictive than that set forth in the application. The Partnership Agreement also imposes certain restrictions on the transfer and assignment of the Units, including that each proposed assignee must deliver to the Managing General Partner evidence of his suitability. The Partnership will not redeem or repurchase Units, does not anticipate formation of a public market for the Units, and thus believes purchases of Units should be considered illiquid investments.

7. The Partnership will be controlled by the General Partners. The limited partners, consistent with their limited liability status, will not be entitled to participate in the control of the Partnership's business. However, the majority in interest of the limited partners will have the right to amend the Partnership Agreement (subject to certain limitations), dissolve the

Partnership, remove any General Partner and elect a replacement therefor, and advise the Managing General Partner with respect to certain matters relating to the Local Limited Partnerships, as further described in the application. In addition, under the Partnership Agreement, each limited partner is entitled to review all books and records to the Partnership at any and all reasonable times.

8. The Partnership Agreement provides that certain significant actions cannot be taken by the Managing General Partner without the express consent of a majority of interest of the limited partners. Such actions include: (a) Until the end of the 10-year period commencing on the date of the prospectus, the sale in a 12-month period of Local Limited Partnership interests constituting more than 33% of the Partnership's then existing total investment in Local Limited Partnership interests; (b) the sale of any one time of all or substantially all of the assets of the Partnership, except for sales in connection with the liquidation and winding up of the Partnership's business upon its dissolution; and (c) electing to dissolve the Partnership. The admission of a successor or additional General Partner would also require express consent under the Partnership Agreement. Only the Class B limited partners will have a vote with regard to matters concerning the Treasury STRIPS. In addition, a merger or consolidation of the Partnership with other entities would require the consent of limited partners who own at least 67% of the number of outstanding Units (in certain cases 100% approval is required).

9. The Partnership will normally acquire at least a 95% interest in the profits, losses and tax credits of the Local Limited Partnerships, with the balance remaining with the local general partners. However, in certain cases, at the discretion of the Managing General Partner, the Partnership may acquire a lesser interest in a Local Limited Partnership. In all cases, including but not limited to situations where the Partnership invests in less than 50% of the limited partnership interest of a Local Limited Partnership, the Local Limited Partnership Agreement will provide that the Partnership will have at least a 50% vote to: amend the partnership agreement of the Local Limited Partnership; dissolve the Local Limited Partnership; remove the local general partner and elect a replacement; and approve or disapprove the sale of substantially all of the assets of the Local Limited Partnership. In addition, the Partnership will require that the Local Limited Partnership agreements provide to the limited partners of the Local Limited Partnerships substantially all of the rights required by Section VII of the guidelines adopted by the North American Securities Administrators Association, Inc. ("NASAA").

10. The General Partners and their affiliates will receive no commissions or fees in connection with the acquisition or holding of the Treasury STRIPS and will not receive any of the proceeds received by the Partnership on the maturity of the Treasury STRIPS. Boston Financial Securities, Inc., an affiliate of the General Partners (the "Selling Agent"), will receive commissions of up to 7% of the Class A gross proceeds on the sale of the Class A limited partnership interests. It will receive 5.04% of the Class B gross proceeds on the sale of the Class B limited partnership interests, calculated by multiplying 72%, which is the percentage available from the Class B limited partnership interests, times 7%, thus assuring that no commissions are paid in connection with the Treasury STRIPS. The Selling Agent will also receive an expense allowance of up to .5% of the Class A gross proceeds and .36% of the Class B gross proceeds to defray accountable due diligence activities and an underwriting advisory fee equal to up to 1.5% of the Class A gross proceeds and 1.08% of the Class B gross proceeds. The Selling Agent may authorize other members ("Soliciting Dealers") of the National Association of Securities Dealers, Inc. ("NASD") to sell Units. The Selling Agent will pay a concession to each Soliciting Dealer of up to the entire commission received by it on all sales of Units by such Soliciting Dealer and may reallow all or any portion of its expense allowance to such Soliciting Dealer. In addition, the Selling Agent expects to reallow a portion of the underwriting advisory fee to certain Soliciting Dealers. Selling commissions and fees equal to 9% in the aggregate of gross proceeds are customarily charged in securities offerings of this type and are consistent with the guidelines of the NASD.

11. All compensation to be paid to the General Partners and their affiliates is specified in the Partnership Agreement and the prospectus, and no compensation will be payable to the General Partners or their affiliates not so specified. The substantial fees and other forms of compensation that will be paid to the General Partners and their affiliates will not have been negotiated through arm's length negotiations. Terms of all such compensation, however, are believed by applicants to be fair and not less favorable to the Partnership than would be the case if such terms had been negotiated with independent third parties. Applicants state that the Partnership believes that such compensation meets all applicable guidelines necessary to permit the Units to be offered and sold in the various states which prescribe such guidelines, including, without limitation, the statement of policy adopted by NASAA applicable to real estate programs in the form of limited partnership. In addition, compensation in various forms will be paid to the local general partner of each Local Limited Partnership.

12. All proceeds of the public offering of Units will initially be placed in an escrow account with Shawmut Bank, N.A. ("Escrow Agent"). Pending release of offering proceeds to the Partnership, the Escrow Agent will deposit escrowed funds in the "Shawmut Interest Bearing Account," a federally insured deposit account. The offering of Units will terminate not later than 24 months from the date upon which the Partnership's registration statement is declared effective. If subscriptions for at least 5,000 Units (in any combination of Class A and/or Class B limited partnership interests) have not been received by one year from the date upon which the Partnership's registration statement is declared effective, no Units will be sold and funds paid by subscribers will be returned promptly, together with a *pro rata* share of any interest earned thereon. Upon receipt of the prescribed minimum number of subscriptions, funds in escrow will be released to the Partnership. Any net proceeds not utilized to purchase Treasury STRIPS on behalf of Class B limited partners and not immediately utilized to acquire Local Limited Partnership interests or for other Partnership purposes will be invested and held in highly liquid, non-speculative securities set forth in the application and which provide adequately for the preservation of capital ("Temporary Investments"). The Partnership intends to apply capital raised in its public offering to the acquisition of Local Limited Partnership interests as soon as possible and does not intend to trade or speculate in Temporary Investments.

Applicants' Arguments

1. Section 6(c) authorizes the SEC to grant an exemption from the Act to the extent "necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the * * * (Act)." Section 6(e) authorizes the SEC "if it deems it

necessary or appropriate in the public interest or for the protection of investors" in connection with any order exempting a company from any provision of section 7 of the Act, to apply certain specific provisions of the Act pertaining to registered investment companies to such company and to other persons in their transactions and relations with such company, as though such company were a registered investment company.

2. Applicants seek an order under sections 6(c) and 6(e) exempting the Partnership from all provisions of the Act other than sections 9, 17, 26(b), 36 and 37, and the rules and regulations thereunder, as further described below, and, as necessary to implement the foregoing sections, sections 38 through 53 of the Act.

3. Section 9 provides that certain persons are ineligible "to serve or act in the capacity of employee, officer, director, member of an advisory board, investment adviser, or depositor of any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust, or registered face amount certificate company." The Partnership will remain subject to the provisions of section 9, and any rules and regulations thereunder, provided, however, that such provisions will not be applicable to the general partners and the employees of the Local Limited Partnerships unless those persons, in addition to their role as Local General Partner or employee of a Local Limited Partnership, also act as an officer, director, employee, member of an advisory board, investment adviser or depositor for the Partnership. Applicants assert that the general partners and employees of Local Limited Partnerships will have no contact, control, or influence over the Partnership's investment in Treasury STRIPS. Accordingly, applicants assert that the investor protection concerns addressed by section 9 are satisfied by applying the ineligibility provisions only to the Partnership and to the general partners and employees of Local Limited Partnerships who are involved with the Treasury STRIPS.

4. Section 17 restricts the right of registered investment companies to engage in certain affiliated transactions, specifies certain procedures relating to registered investment companies' custody arrangements, specifies certain bonding requirements, limits the right of registered investment companies to indemnify or otherwise protect officers and directors against certain liabilities, and prohibits certain persons from engaging in any fraudulent activities in connection with the acquisition or disposition of securities on behalf of a registered investment company, absent an order issued by the SEC. Section 26(b) prohibits a unit investment trust holding the security of a single issuer from substituting another security for such security, absent an order issued by the SEC. Solely with respect to the Partnership's conduct in connection with transactions involving the Treasury STRIPS, the Partnership will remain subject to the provisions of section 17 and the rules and regulations thereunder, with the exception of the requirement set forth in rule 17g–1(d) that a fidelity bond be approved by a majority of the disinterested members of the board of directors of an investment company.[3] With the same limitation expressed above with respect to section 17, the Partnership also will remain subject to the provisions of section 26(b), as if the Partnership were a unit investment trust and as if the Treasury STRIPS were the only securities held by the Partnership. The Partnership will not speculate in, trade, or otherwise dispose of the Treasury STRIPS. Applicants state that significant protections are already in place with respect to the Partnership's investment in the apartment complexes. They further state that the imposition of the provisions of section 17, as set forth above, and the provisions of section 26(b) on all aspects of the Partnership's business would be unduly harsh and is not necessary to advance investor protections. Accordingly, applicants assert that the restrictions should be limited to the Partnership's investment in the Treasury STRIPS.

5. Section 36 provides for certain actions in the event of a breach of fiduciary duty by certain persons in connection with a registered investment company. Section 37 provides that anyone who engaged in larceny or embezzlement with respect to the property of a registered investment company is guilty of a crime and shall be subject to the penalties provided in section 49 of the Act. Solely with respect to the Partnership's conduct in connection with transactions involving the Treasury STRIPS, the Partnership will remain subject to the provisions of sections 36 and 37 of the Act.

6. The Partnership will also remain subject to the provisions of sections 38 through 53 of the Act to the extent necessary to implement the sections discussed above.

7. Applicants assert that the requested relief is consistent with the protection of investors and the purposes and policies underlying the Act. Applicants assert, among other things, that investment in low and moderate income housing in accordance with the national policy expressed in title IX of the Housing and Urban Development Act of 1968 is not economically suitable for private investors without the tax and organizational advantages of the limited partnership form. Applicants further assert that the availability of the Class B limited partnership interests, by providing some liquidity, should encourage investment in such housing, notwithstanding the "limited profit, essentially tax shelter" nature of such an investment.

8. Applicants assert that the Partnership is primarily engaged in the low and moderate income housing business and that its involvement with Treasury STRIPS is a minor part of the Partnership's business and is only being used to assist in furthering the goal of investment in "affordable housing."

9. Release No. IC–8456 lists two conditions, designed for the protection of investors, which must be satisfied in order to qualify for the type of exemptive relief which the Partnership seeks: (a) "Interests in the issuer should be sold only to persons for whom investments in limited profit, essentially tax-shelter, investments would not be unsuitable * * *;" and (b) "requirements for fair dealing by the general partner of the issuer with the limited partners of the issuer should be included in the basic organizational documents of the company." The Partnership will comply with these conditions and will otherwise operate in a manner designed to ensure investor protection. Interests in the Partnership will be sold only to, and transfers will be permitted only to, investors who meet specified suitability standards (as described above) which the Partnership believes are consistent with the requirements in Release No. IC–8456, with the guidelines of those states which prescribe suitability

[3] The Partnership, by definition, does not have the ability to obtain approval of the bond by "disinterested persons," as required under rule 17g–1(d). However, because the fidelity bond acquired by the Partnership will be equal in value to that of the Treasury STRIPS when due, and because of the other, substantial protections imposed by the Partnership described in the application, the Partnership asserts that this requirement is unnecessary in this case.

standards, and with the securities laws of all states where the Units will be sold. Such investors will receive extensive reports concerning the Partnership's business and operations.

10. As discussed above, no compensation will be paid to the General Partners and their affiliates in connection with the acquisition and holding of the Treasury STRIPS. In addition, all compensation to be paid to the General Partners and their affiliates in connection with the rest of the Partnership's business is specified in the Partnership Agreement and the prospectus and no compensation will be payable to the General Partners or any of their affiliates not so specified.

11. The contemplated arrangement of the Partnership is not susceptible to abuses of the sort the Act was designed to remedy. The suitability standards described above, the requirements for fair dealing provided by the Partnership's governing instruments, and pertinent governmental regulations imposed on each Local Limited Partnership by various federal, state and local agencies, provide protection to investors in Units comparable to that provided by the Act.

Condition to Relief

Applicants agree that, as a condition to any grant of the requested relief, the Partnership will keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect any transactions involving the Partnership's assets, including, without limitation, any acquisitions and dispositions of Treasury STRIPS; take all steps necessary to ensure that all such books, records, and accounts shall be subject at any time and from time to time to such reasonable periodic, special, and other examinations by the SEC or its staff; and furnish to the SEC, within such reasonable time as the SEC may prescribe, copies of or extracts from such reports which may be prepared without undue effort, expense, or delay, as the SEC may by order require. The requirements of this condition will be in addition to, and not in substitution of, any reporting and filing requirements to which the Partnership may already be subject.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-27025 Filed 11-8-91; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program for Honolulu International Airport (HNL) Honolulu, Hawaii

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the State of Hawaii, Department of Transportation under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96-52 (980). On February 7, 1991 the FAA determined that the noise exposure maps submitted by the State of Hawaii, Department of Transportation under part 150 were in compliance with applicable requirements. On August 6, 1991 the Administrator approved the Honolulu International Airport noise compatibility program. Sixteen (16) of the nineteen (19) recommendations of the program were approved; one (1) recommendation was partially approved, and two (2) were disapproved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Honolulu International Airport noise compatibility program is August 6, 1991.

FOR FURTHER INFORMATION CONTACT: David J. Welhouse, Airport Engineer/Planner, Honolulu Airports District Office, Federal Aviation Administration, P.O. Box 50244, Honolulu, Hawaii 96850. Telephone: (808) 541-1243, Street Address: 300 Ala Moana Blvd., room 7116. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for the Honolulu International Airport, effective August 6, 1991.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgment or that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of light procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air tragic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the

FAA. Where federal funding is sought, requests or project grants must be submitted to the FAA Airports District Office in Honolulu, Hawaii.

The State of Hawaii, Department of Transportation submitted to the FAA on December 27, 1989, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from May 1986 through September 1989. The Honolulu International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on February 7, 1991. Notice of this determination was published in the **Federal Register** on February 7, 1991.

The Honolulu International Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 2007. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on February 7, 1991, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new light procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained four (4) proposed actions or noise abatement, and fifteen (15) proposals for noise mitigation. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective August 6, 1991.

Outright approval was granted for sixteen (16) of the nineteen (19) specific program elements. Approved program measures include: Upgrade noise monitoring system; create statewide noise abatement staff; create a statewide noise abatement committee; modify development plan ordinances affecting surrounding land use; require noise sensitive buildings and incompatible land uses to dedicate an avigation easement to the State; require all new and existing noise sensitive buildings to have acoustical interior treatment to the 45 Ldn level; acquire development rights for all compatible lands which have become incompatible in areas exposed to Ldn 60 or greater; provide tax incentives to land owners to maintain compatible land use; or areas 65 Ldn or greater, establish a purchase assurance program; purchase incompatible land, and review and update the noise exposure maps and the noise compatibility program periodically. Partially approved measures include the acquisition of aviation easements or certain locales.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on August 6, 1991. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available or review at the FAA office listed above and at the administrative offices of the State of Hawaii.

Issued in Hawthorne, California on October 11, 1991.

Ellsworth L. Chan,

Acting Manager, Airports Division, Western-Pacific Region.

[FR Doc. 91-27083 Filed 11-8-91; 8:45 am]

BILLING CODE 4910-13-M

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review; Orlando International Airport; Orlando, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the City of Orlando for Orlando International Airport under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Orlando International Airport under Part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before April 13, 1991.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is October 16, 1991. The public comment period ends December 15, 1991.

FOR FURTHER INFORMATION CONTACT: Pablo G. Auffant, P.E. Federal Aviation Administration, Orlando Airports District Office, 9677 Tradeport Drive, Orlando, Florida 32827-5397, (407) 648-6582. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Orlando International Airport are in compliance with applicable requirements of part 150, effective October 16, 1991. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before April 13, 1992. This notice also announces the availability of this program for public review and comment.

Under section 103 of title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The City of Orlando, Florida submitted to the FAA on February 1991 noise exposure maps, descriptions and other documentation which were produced during the Orlando International Airport FAR part 150 Study between December 1990 and February 1991. It was requested that the FAA review this material as the noise exposure maps, as described in Section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under Section 104(b) of the Act.

The FAA completed its review of the noise exposure maps and related descriptions submitted by the City of Orlando, Florida. The specific maps under consideration are "Current 1990 Noise Contours Map A and Future 1995 Noise Contours Map B" in the submission. The FAA has determined that these maps for Orlando International Airport are in compliance

with applicable requirements. This determination is effective on October 16, 1991. FAA's determination on an airport operators's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under Section 103 of the Act. The FAA relied on the certification by the airport operator, under § 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Orlando International Airport, also effective on October 16, 1991. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before April 13, 1992.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., room 617, Washington, DC 20591

Federal Aviation Administration, Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827–5397

Mr. Steve Gardner, Director of Engineering, Orlando International Airport, Greater Orlando Airport Authority, One Airport Boulevard, Orlando, Florida 32827–4399

Questions may be directed to the individual named above under the heading, "**FOR INFORMATION CONTACT:**"

Issued in Orlando, Florida October 16, 1991.

John W. Reynolds, Jr.,

Assistant Manager, Orlando Airports District Office.

[FR Doc. 91–27084 Filed 11–8–91; 8:45 am]

BILLING CODE 4910–13–M

Aviation Security Advisory Committee; Renewal

Notice is hereby given of the renewal of the Aviation Security Advisory Committee. The Federal Aviation Administrator is the sponsor of the Committee, which will consist of members appointed by the Administrator as representatives of a broad perspective of the aviation community. The Committee will examine all areas of civil aviation security with the aim of providing recommendations for the improvement of methods, equipment, and procedures which will ensure a high degree of safety for the traveling public. The functions of the Committee are solely advisory.

The Administrator has determined that the information and use of the Committee are necessary in the public interest in connection with the performance of duties imposed on FAA by law. Meetings of the Committee will be open to the public.

Issued in Washington, DC, on October 31, 1991.

Jack L. Gregory,

Deputy Assistant Administrator for Civil Aviation Security.

[FR Doc. 91–27085 Filed 11–8–91; 8:45 am]

BILLING CODE 4910–13–M

Open Forum—Concerning Regulatory and Nonregulatory Airspace Surrounding the Chicago Midway Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of informal airspace meeting.

SUMMARY: This notice announces an informal airspace meeting to discuss and solicit information concerning the airspace structure surrounding the Chicago Midway Airport (MDW). In 1990, enplaned passengers for Chicago Midway Airport increased to 3,935,966; during the same period the total airport operations count increased to 320,951. These increases indicate a need to conduct a comprehensive study of the airspace surrounding Chicago Midway Airport to determine if additional regulatory airspace is feasible and warranted.

DATES: Comments must be received on or before February 14, 1992. The informal airspace meeting will be held on Saturday, December 14, 1991.

ADDRESSES: The informal airspace meeting location is as follows:

Date: Saturday, December 14, 1991.
Time: 10 a.m.
Location: Oak Brook Hills Hotel, Grand Ballroom (Courts F–J), 3500 Midwest Road, Oak Brook, IL 60522–7010.

FOR FURTHER INFORMATION CONTACT: Douglas Powers, Systems Management Branch (AGL–500), Air Traffic Division, Federal Aviation Administration, Great Lakes Region Headquarters, O'Hare Lake Office Center, 2300 East Devon Avenue, Des Plaines, IL 60018, telephone (312) 694–7000.

SUPPLEMENTARY INFORMATION:

Meeting Procedures

(a) The meeting will be informal in nature and will be conducted by a representative of the FAA's Great Lakes Region. Each participant will be given an opportunity to make a presentation.

(b) The meeting will be open to all persons on a space-available basis. There will be no admission fee or other charge to attend and participate.

(c) Any person wishing to make a presentation to the panel will be asked to sign in and estimate the amount of

time needed for such presentation. This will permit the panel to allocate an appropriate amount of time for each presenter. The panel may allocate the time available for each presentation in order to accommodate all speakers. The meeting will not be adjourned until everyone on the list has had an opportunity to address the panel. The meeting may be adjourned at any time if all persons present have had the opportunity to speak.

(d) Position paper or other handout material relating to the substance of the meeting may be accepted. Participants wishing to submit handout material should present three copies to the presiding officer. There should be additional copies of each handout available for other attendees.

(e) The meeting will not be formally recorded. However, a summary of the comments made at this meeting will be filed in the docket.

Agenda

Opening Remarks and Discussion of Meeting Procedures.
Public Presentations.
Closing Comments.

Issued in Washington, DC, on November 5, 1991.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 91-27086 Filed 11-8-91; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

Petitions for Waivers of Compliance

In accordance with 49 CFR 211.9 and 21.41, notice is hereby given that the Federal Railroad Administration (FRA) has received requests for waivers of compliance with certain requirements of the Federal safety laws and regulations. The individual petitions are described below, including the parties seeking relief, the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favor of relief.

Electro-Motive Division, General Motors Corporation

[Docket Number SA-91-10]

The Electro-Motive Division (EMD) of the General Motors Corporation requests a waiver of compliance with certain provisions of the Safety Appliance Standards (49 CFR part 231), under Docket Number SA-91-10.

EMD seeks this waiver of compliance to permit it to alter the location of handholds on high snow plows. Section 231.29 requires that road locomotives with corner stairways must have horizontal handholds described in § 231.30(g). Section 231.30(g)(i)(ii) states in part that * * * "on units with a high snow plow that makes normal handhold location inaccessible, end handhold shall be located on top of the snow plow blade, with the center of the handhold not more than fifty-three (53) inches above the top of rail, and be in line with the slope of the plow blade."

EMD states that it is difficult to have the handhold mounted on top of the snow plow and not have it fouled by the electrical control cables, fuel transfer hoses, the uncoupling arrangement and other locomotive end mounted paraphernalia. The EMD Locomotive Group would meet the intent of 49 CFR 231.30(g) with a handhold mounted underneath the top lip of the snow plow. This type of arrangement has been used on the snow plows of the EMD F40PH locomotives operated by Amtrak on their passenger trains for 15 years with no reported problems.

Tennessee Valley Railroad

[Docket Number LI-91-3]

The Tennessee Valley Railroad (TVRM) requests a waiver of compliance with certain provisions of the Steam Locomotive Rules (49 CFR part 230). The TVRM seeks a waiver of compliance with rule 230.108(b) and rule 230.110 of the Laws, Rules and Instructions for Inspection and Testing of Steam Locomotives and Tenders and their Appurtenances for its two steam locomotives numbered 610 and 4501.

Rule 230.108(b) states, "The entire surface of the (main air) reservoir should be hammer tested each time the locomotive is shopped for general repairs, but not less frequently than once each 18 months." The railroad states that the main air reservoirs on both steam locomotives are of all welded construction and because of this, it proposes that § 229.31(c) of the Federal Railroad Administration (FRA) Railroad Locomotive Safety Standards and Locomotive Inspection be applied to them. Section 229.31(c) allows a railroad to drill each welded main reservoir with telltale holes to a specified depth as determined by formula. This drilling would preclude the railroad from the requirements of hammer testing the reservoirs every 18 months.

Rule 110 states, "Time of Cleaning-Distributing or control valves, reducing valves, triple valves, straight-air double-check valves, and dirt collectors shall be cleaned as often as conditions require to maintain them in a safe and suitable condition for service, but not less frequently than once every six months." The TVRM submitted a drawing of Schedule 26L air brake components that were applied to the locomotive 610 and the 4501 when the original Number 6 ET type air brake equipment was replaced. The railroad stated the change was made because the 26L system will further enhance safe train operations as well as the availability of repair and replacement parts for future needs. The railroad requests that the air brake testing and cleaning parameters be those defined in the FRA Railroad Locomotive Safety Standards and Locomotive Inspection, § 229.27, Annual tests, and § 229.29, Biennial tests. These regulations pertain to other than steam locomotives.

Interested parties are invited to participate in this proceeding by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with this proceeding since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning this proceeding should identify the appropriate docket number (e.g., Waiver Petition Docket Number SA-91-10) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Communications received before December 9, 1991, will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning this proceeding are available for examination during regular business hours (9 a.m.-5 p.m.) in room 8201, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Issued in Washington, DC, on October 30, 1991.

Philip Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 91-27052 Filed 11-8-91; 8:45 am]

BILLING CODE 4910-06-M

Research and Special Programs Administration

Office of Hazardous Materials Safety; Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before December 12, 1991.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

Application number	Applicant	Regulation(s) affected	Nature of exemption thereof
10695-N	3M, Surgical Division, St. Paul, MN	49 CFR 172.101, 172.400(b), 172.504(e).	To authorize the transportation of ethylene oxide, in metal cars, without poison B labels and placards. (modes 1 and 2.)
10698-N	Chilton Metal Products, Div. of Western Ind., Inc., Chilton, WI.	49 CFR 178.50-14 (a) (b) (c) (d) (i), 178.50-15, 178.50-16, 178.50-17, 178.50-19, 178.50-4.	To manufacture, mark and sell DOT specification 4B refillable 13 and 16 ounce cylinders for shipment of propane and refrigerant gas, to be exempt from various marking, testing and reporting requirements. (modes 1 and 2.)
10699-N	Union Pacific Railroad Company, Omaha, NE.	49 CFR 173.22	To authorize the transport of gasoline in non-DOT specification 5 gallon containers in company owned and operated maintenance vehicles. (mode 1.)
10700-N	J.H. Products, Inc., Lockport, NY	49 CFR 174.67(i) (j)	To authorize chlorine filled tank cars to stand with unloading connections attached during unloading without the physical presence of an unloader. (mode 2.)
10701-N	Kin-Tek Laboratories, Inc., Texas City, TX.	49 CFR 173.4, Appendix B, Subpart B, (1) (2).	To authorize shipment of permeation devices containing not over 5 grams of various hazardous materials. (modes 1, 2, 4, 5.)
10702-N	Grow Group, Inc., Havre de Grace, MD.	49 CFR 176.6 (i), (j)	To authorize chlorine filled tank to stand with unloading connections attached during unloading without the physical presence of an unloader. (mode 1.)
10703-N	Advanced Delivery & Chemical Systems, Inc., Austin, TX.	49 CFR 173.247(a)(1)	To authorize the shipment of 1.3 liter stainless steel container inside a carbon steel can overpacked in a 19B wooden box for shipment of a corrosive material. (modes 1 and 3.)
10704-N	Liquid Air Corporation, Walnut Creek, CA.	49 CFR 173.11, 173.12(a)	To authorize the shipment of flammable and nonflammable gas aerosols in containers complying with DOT Specification 2P or 2Q containers. (modes 1 and 2.)
10705-N	Baker Performance Chemicals, Inc., Houston, TX.	49 CFR 173.122(a)(5)	To authorize the transportation of acrolein in non-DOT specification IMCO Type 5 portable tanks with flammable or corrosive material. (mode 1.)

This notice of receipt of applications for new exemptions is published in accordance with part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on November 5, 1991.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 91-27054 Filed 11-8-91; 8:45 am]

BILLING CODE 4910-60-M

Office of Hazardous Materials Safety; Applications for Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions or applications to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "X" denote a modification request. Application numbers with the suffix "P" denote a party to request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before November 27, 1991.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Unit, room 8426, Nassif Building, 400 7th Street SW. Washington, DC.

Application number	Applicant	Renewal of exemption
8228-X	Department of the Treasury (BATF), Washington, DC (See Footnote 1)	8228
8556-X	Air Products and Chemicals, Inc., Allentown, PA (See Footnote 2)	8556
8965-X	Pressed Steel Tank Co., Inc., Milwaukee, WI (See Footnote 3)	8965
9758-X	Insulation Material Corporation of America, Haltom City, TX (See Footnote 4)	9758
10323-X	Solkatronic Chemicals, Inc., Fairfield, NJ (See Footnote 5)	10323
10504-X	Solkatronic Chemicals, Inc., Fairfield, NJ (See Footnote 6)	10504
10697-X	Liquid Air Corporation, Walnut Creek, CA (See Footnote 7)	10697

[1] To modify the exemption to include cargo aircraft and rail freight as an additional mode of transportation.
[2] To authorize use of non-DOT specification portable tanks for shipment of certain nonflammable or flammable gases with a maximum allowable working pressure of 151 psig or 161 psig.
[3] To increase capacity of non-DOT specification fiber reinforced plastic, hoop wrapped cylinders from 350 pounds water capacity to 400 pounds for shipment of certain flammable or nonflammable gases.
[4] To modify the exemption to include cargo aircraft as an additional mode of transportation.
[5] To modify the exemption to include cargo vessel and rail freight as additional modes of transportation.
[6] To modify the exemption to include cargo vessel and rail freight as additional modes of transportation.
[7] To reissue exemption originally issued on an emergency basis to authorize the shipment of certain flammable compressed gas mixtures in manifolded/DOT specification 3AAX steel cylinders.

Application number	Applicant	Parties to exemption
6614-P	Aut-Chlor System, Memphis, TN	6614
6691-P	Brooks Welding Supply Company, Chattanooga, TN	6691
6691-P	Nordan Smith Welding Supplies, Hattiesburg, MS	6691
6691-P	Jackson Welding Supply Co., Inc., Rochester, NY	6691
6691-P	The Jimmie Jones Company, Tulsa, OK	6691
6691-P	Four R Industrial Supply, Inc., Borger, TX	6691
7052-P	Baker Hughes MWD, Houston, TX	7052
7060-P	Corporate Air, Inc., Hartford, CT	7060
7628-P	LCI, Ltd., Jacksonville Beach, FL	7628
7887-P	Quest Aerospace Education, Inc., Phoenix, AZ	7887
7891-P	Sigma Chemical Company, St. Louis, MO	7891
7891-P	Aldrich Chemical Company, Milwaukee, WI	7891
7891-P	Fluka Chemical Corporation, Ronkonkoma, NY	7891
8453-P	Hermitage Explosives Corporation, Nashville, TN	8453
8453-P	Ireco Incorporated, Salt Lake City, UT (See Footnote 1)	8453
8518-P	Cal-Coast Acidizing Service, Orcutt, CA	8518
8526-P	Brookville Transport Limited, Saint John, N.B., Canada	8526
8582-P	Metra, Chicago, IL	8582
8627-P	Baker Performance Chemicals, Inc., Houston, TX	8627
9275-P	Tiffany & Co., Piscataway, NJ	9275
9275-P	Parfums Ungaro, Inc., New York, NY	9275
9275-P	Christian Dior Perfumes, Inc., Piscataway, NJ	9275
9275-P	Brylane Inc., Indianapolis, IN	9275
9723-P	K & B Trucking, Inc., Hatfield, PA	9723
9769-P	Eastern Chemical Waste Systems, Inc., Silver Spring, MD	9769
9769-P	Eastern Chemical Waste System—Caribe, Inc., San Juan, PR	9769
9934-P	Advance Research Chemicals, Inc., Catoosa, OK	9934
10504-P	Airco Special Gases, Riverton, NJ	10504
10670-P	Sigma Chemical Company, St. Louis MO	10670
10699-P	Union Pacific Railroad Company, Omaha, NE	10699

[1] Request party status and to authorize the shipment of certain oxidizers in non-DOT specification cargo tanks or DOT Specification MC-306, 307 or 312 cargo tanks.

This notice of receipt of applications for renewal of exemptions and party to an exemption is published in accordance with part 107 of the Hazardous Materials Transporations Act (49 U.S.C. 49 CFR 1.53(e)).

Issued in Washington, DC, on November 5, 1991.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 91-27053 Filed 11-8-91; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: November 4, 1991.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

SPECIAL REQUEST: The Internal Revenue Service is requesting a 30-day review and approval from the Office of Management and Budget in order to meet a necessary print date. Only Form 990-PF had changes. There were 14 lines added and 56 lines removed because the statute expired and the information is no longer needed. In addition, a new Schedule IX was added and Schedules XI and XII were deleted.

Internal Revenue Service

OMB Number: 1545-0052.

Form Number: IRS Forms 990–PF and 4720.

Type of Review: Revision.

Title: Return of Private Foundation or Section 4947(a)(1) Charitable Trust Treated as a Private Foundation (Form 990–PF); Return of Certain Excise Taxes on Charities and Other Persons Under Chapters 41 and 42 of the Internal Revenue Code (Form 4720).

Description: Internal Revenue Code (IRC) 6033 requires all private foundations, including section 4947(a)(1) trusts treated as private foundations, to file an annual information return. Section 53.4940–1(a) of the Income Tax Regulations requires that the tax on net investment income be reported on the return filed under section 6033. Section 6011 requires a report of taxes under chapter 42 of the Code for prohibited acts by private foundations and certain related parties. Section 4947(a)(1) trusts may file Form 990–PF in lieu of Form 1041 under the provisions of sections 6033 and 6012.

Respondents: Non-profit institutions.

Estimated Number of Respondents/Recordkeepers: 43,067.

Estimated Burden Hours Per Respondent/Recordkeeper:

	Form 990–PF	Form 4720
Recordkeeping	140 hrs., 8 min.	31 hrs., 5 min.
Learning about the law or the form	27 hrs., 5 min.	15 hrs., 31 min.
Preparing the form	31 hrs., 29 min.	22 hrs., 17 min.
Copying, assembling, and sending the form to IRS	16 min.	1 hr., 37 min.

Frequency of Response: Annually.

Estimated Total Reporting/Reporting Burden: 8,432,394 hours.

Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 91–27107 Filed 11–8–91; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

Dated: November 5, 1991.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0215.

Form Number: IRS Forms 5712 and 5712–A.

Type of Review: Revision.

Title: Election To Be Treated as a Possessions Corporation Under Section 936 (Form 5712); Election and Verification of the Cost Sharing or Profit Split Method Under Section 936(h)(5) (Form 5712–A).

Description: Domestic corporations may elect to be treated as possessions corporations on Form 5712. This election allows the corporation to take a tax credit. Possessions corporations may elect on Form 5712–A to share their taxable income with their affiliates under section 936(h)(5). These forms are used by the IRS to ascertain if corporations are entitled to the credit and if they may share their taxable income with their affiliates.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents/Recordkeepers: 2,600.

Estimated Burden Hours Per Respondent/Recordkeeper:

	Form 5712	Form 5712–A
Recordkeeping	4 hrs., 47 min.	5 hrs., 30 min.
Learning about the law or the form	30 min.	30 min.
Preparing and sending the form to IRS	36 min.	37 min.

Frequency of Response: Annually.

Estimated Total Reporting/Reporting Burden: 17,113 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 91–27108 Filed 11–8–91; 8:45 am]

BILLING CODE 4830–01–M

Customs Service

Changes in the Sampling Rate of Bulk Raw Sugar

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final notice of changes in sampling rate of bulk raw sugar.

SUMMARY: This document changes the sampling rate of bulk raw sugar from the required one sample for each 700,000 pounds of dutiable raw sugar to one sample for every 2,100,000 pounds. Customs is changing this rate because laboratory data shows that less frequent sampling will be adequate for Customs purposes.

EFFECTIVE DATE: November 12, 1991.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Karl, Office of Laboratories and Scientific Services, 202–566–2446.

SUPPLEMENTARY INFORMATION: Written comments were submitted by three members of the sugar industry in response to the **Federal Register** notice of the proposed changes dated Monday, March 18, 1991. All respondents are in agreement with Customs proposal to change the sampling of bulk raw sugar.

Customs Directive 3820–001, Guidelines for the Sampling and Testing of Dutiable Raw Sugar Importations, dated October 10, 1991, updates the sampling requirements. Interested parties can obtain copies of this Custom Directive from their District Director.

Dated: November 5, 1991.

John B. O'Loughlin,

Director, Office of Laboratories and Scientific Services.

[FR Doc. 91–27049 Filed 11–8–91; 8:45 am]

BILLING CODE 4820–02–M

Internal Revenue Service

Rechartering of the Advisory Group to the Commissioner of Internal Revenue

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of determination of necessity for renewal of the Advisory Group to the Commissioner of Internal Revenue.

SUMMARY: It is in the public interest to continue the existence of the Advisory Group to the Commissioner of Internal Revenue.

The Internal Revenue Service, Department of the Treasury, pursuant to the Federal Advisory Committee Act of October 6, 1972, Public Law 92–463, as amended, and with approval of the Secretary of the Treasury, announces the renewal of the Charter of the Advisory Group of the Commissioner of Internal Revenue. This determination follows consultation with the Committee Management Secretary, General Services Administration.

Purpose. The purpose of the committee is to provide an organized public forum for discussions of relevant tax administration issues between officials of IRS and representatives of the public. The Advisory Group also offers constructive observations about IRS' current or proposed policies, programs, and procedures, and where necessary, suggests ways to improve IRS' operations. The Commissioner and other senior officials received fom the Advisory Group a significant amount of information about the problems taxpayers encounter not only in dealing with IRS but also in meeting obligations imposed on them statutorily. The Service uses the advice of the Advisory Group to develop a tax administration system which reflects the simplest, most equitable approach to administering the tax system that it is within our power to pursue. Accordingly, the Advisory Group conveys to the Service the public's perceptions of IRS activities.

The services of the Advisory Group are expected to be needed for an indefinite period of time. No termination date has been established which is less than two years from the date this Charter has been approved.

In accordance with the Federal Advisory Committee Act (P.L. 92–463, as amended) the Department of the Treasury has renewed the charter of the Advisory Group to the Commissioner of Internal Revenue for a two-year period beginning November 2l, 1991.

Dated: November 5, 1991.

David M. Nummy,

Acting Assistant Secretary, (Management).

[FR Doc. 91–27109 Filed 11–8–91; 8:45 am]

BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 218
Tuesday, November 12, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. COMMISSION ON CIVIL RIGHTS

November 7, 1991.

DATE AND TIME: Friday, November 15, 1991, 9:00 a.m.–5:00 p.m.

PLACE: U.S. Commission on Civil Rights, 1121 Vermont Avenue, N.W., Room 512, Washington, DC 20425.

STATUS: Open to the Public.

November 15, 1991

I. Approval of Agenda
II. Approval of Minutes of October Meeting
III. Announcements
IV. Approval of draft Commission report *Civil Rights Issues Facing Asian Americans in the 1990s*
V. Appointments for the Connecticut and Nevada Advisory Committees
VI. Alabama SAC Report: *Crisis and Opportunity: Race Relations in Selma*
VII. Kansas SAC Report: *Racial and Religious Tensions on Selected Kansas College Campuses*
VIII. Commissioner Task Force Report
IX. Staff Director's Report
X. Future Agenda Items

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications, (202) 375–8312.

Emma Monroig,

Solicitor.

[FR Doc. 91–27322 Filed 11–7–91, 3:59 pm]

BILLING CODE 6335–01–M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 1:30 p.m., November 18, 1991.

PLACE: 5th Floor, Conference Room, 805 Fifteenth Street, N.W., Washington, DC

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the October 22, 1991, Board meeting.
2. Thrift Savings Plan activity report by the Executive Director.
3. Quarterly review of investment policy.
4. Review of KPMG Peak Marwick audit reports entitled:
 "Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Forfeiture and Forfeiture Restoration Procedures at the United States Department of Agriculture, Office of Finance and Management, National Finance Center"
 "Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Interfund Transfer Process at the United States Department of Agriculture, Office of Finance and management, National Finance Center."
 "Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Withdrawal Subsystem at the United States Department of Agriculture, Office of Finance and Management, National Finance Center."
5. Ethics briefing.

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 523–5660

Dated: November 7, 1991.

Francis X. Cavanaugh,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 91–27278 Filed 11–7–91; 1:42 pm]

BILLING CODE 6760–01–M

FEDERAL TRADE COMMISSION

TIME AND DATE: 11 a.m., Thursday, November 21, 1991.

PLACE: Room 532, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Open.

MATTER TO BE CONSIDERED:

Oral Presentations by the National Funeral Directors Association, the National Selected Morticians, the American Association of Retired Persons, the Pre-Arrangement Association of America, the Cremation Association of North America, the American Cemetery Association, and the Monument Builders of North America, in the Funeral Rule Review proceeding.

CONTACT PERSON FOR MORE INFORMATION: Bonnie Jansen, Office of Public Affairs: (202) 326–2178, Recorded Message: (202) 326–2711.

Donald S. Clark,

Secretary.

[FR Doc. 91–27199 Filed 11–8–91; 4:50 pm]

BILLING CODE 6750–01–M

NATIONAL SCIENCE BOARD

DATE AND TIME:

November 22, 1991—8:30 a.m. Closed Session

November 22, 1991—9:00 a.m. Open Session

PLACE: National Science Foundation, 1800 G Street, NW, Room 540, Washington, DC 20550.

STATUS:

Part of this meeting will be open to the public.

Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Friday, November 22, 1991

Closed Session (8:30 a.m.—9:00 a.m.)

1. Minutes—October 1991 Meeting
2. NSB and NSF Staff Nominees
3. Future NSF Budgets
4. Grants and Contracts

Friday, November 22, 1991

Open Session (9:00 a.m.—12:00 Noon)

5. Chairman's Report
6. Minutes—October 1991 Meeting
7. New Program Considerations
8. Director's Report
9. Carnegie Report on Edcuation
10. Other Business

Thomas Ubois,

Executive Officer.

[FR Doc. 91–27320 Filed 11–7–91; 3:05 pm]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of November 11, 18, 25, and December 2, 1991.

PLACE: Commissioners's Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of November 11

Friday, November 15

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Final Rule on Nuclear Power Plant License Renewal (Tentative)
b. Appeal of LBP–91–28, Public Service Company of New Hampshire, et al. (Transfer of Ownership Amendment) (Tentative)

Week of November 18—Tentative

Monday, November 18

9:30 a.m.
Briefing on Status of Design Basis Reconstitution (Public Meeting)

Wednesday, November 20

2:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Developments in Perry/Davis-Besse Antitrust Hearing (Tentative)

Week of November 25—Tentative

Tuesday, November 26

10:00 a.m.
Executive Branch Briefing on Indonesia (Closed—Ex. 1)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of December 2—Tentative

Friday, December 6

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meeting Call (Recording)—(301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

Dated: November 6, 1991.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 91–27230 Filed 11–7–91; 1:13 pm]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of November 11, 1991.

A closed meeting will be held on Tuesday, November 12, 1991, at 2:30 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, November 12, 1991, at 2:30 p.m., will be:

Institution of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Settlement of administrative proceeding of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Atkins at (202) 272–2000.

Dated: November 7, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–27321 Filed 11–7–91; 3:55 pm]

BILLING CODE 8010–01–M

STATE JUSTICE INSTITUTE

TIME AND DATE:

9:00 a.m. to 5:00 p.m., November 22, 1991
9:00 a.m. to 5:00 p.m., November 23, 1991

PLACE: Planters Inn, 29 Abercorn Street, Savannah, GA 31401.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public: Business meeting (except as noted below) and consideration of grant proposals and grant applications.

Portions Closed to the Public: Discussion of internal personnel issues.

CONTACT PERSON FOR MORE INFORMATION: David I. Tevelin, Executive Director, State Justice Institute, 1650 King Street, Suite 600, Alexandria, Virginia 22314, (703) 684–6100.

David I. Tevelin,

Executive Director.

[FR Doc. 91–27271 Filed 11–7–91; 1:14 pm]

BILLING CODE 6820–SC–M

Corrections

Federal Register
Vol. 56, No. 218
Tuesday, November 12, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 108 and 120

Development Companies and Business Loans

Correction

In rule document 91-25885 beginning on page 55445 in the issue of Monday, October 28, 1991, make the following correction:

On page 55446, the table was incorrect and should appear as set forth below:

Owner	% of Holding Company		% of Operating
Father	50		0
Mother	0		20
Son 1			
Son 2	15		50
Son of Son 2.	0		10
Key Manager.	15	Mirror	15
1st cousin of father.	5	Image	5

Owner	% of Holding Company		% of Operating
	100		100

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Intent To Grant an Exclusive License

Correction

In notice document 91-4589 appearing on page 8181 in the issue of Wednesday, February 27, 1991, in the third column, in the file line at the end of the document, "FR Doc. 91-4583" should read "FR Doc. 91-4589".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Business Development Center Applications: Honolulu, HI

Correction

In notice document 91-2887 beginning on page 4977 in the issue of Thursday, February 7, 1991, make the following correction:

On page 4978, in the first column, in the file line at the end of the document: "FR Doc. 91-2667" should read "FR Doc. 91-2887".

BILLING CODE 1505-01-D

DEPARTMENT OF EDUCATION

[CFDA No.: 84.144A-2]

Chapter 1 Migrant Education Coordination Program for State Educational Agencies Inviting Applications for New Awards for Fiscal Year (FY) 1991

Correction

In notice document 91-4694 appearing on page 8613 in the issue of Thursday, Febraury 28, 1991, in the third column, in the file line at the end of the document, "FR Doc. 91-4693" should read "FR Doc. 91-4694".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Fiscal Service

Treasury Current Value of Funds Rate

Correction

In notice document 91-25811 beginning on page 55521 in the issue of Monday, October 28, 1991, make the following correction:

On page 55522, in the first column, under **SUPPLEMENTARY INFORMATION**, the eighth and ninth lines should read "investment rates for the 12-month period ending every".

BILLING CODE 1505-01-D

federal register

Tuesday
November 12, 1991

Part II

Department of Transportation

Research and Special Programs Administration

49 CFR Parts 171 and 173

Periodic Inspection and Requalification of Acetylene Cylinders; Final Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 and 173

[Docket No. HM-23, Amdt. Nos. 171-14, 173-229]

RIN 2137-AB61

Periodic Inspection and Requalification of Acetylene Cylinders

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: RSPA is amending the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) to require regular inspection and periodic requalification of acetylene cylinders. This rule was developed, in part, in response to a petition for rulemaking submitted by the Compressed Gas Association, Inc. (CGA). It establishes standards for the periodic requalification of acetylene cylinders, establishes a schedule for retesting and requalifying acetylene cylinders, and requires the cylinders to be visually inspected externally before each filling. The intended effect of these regulatory changes is to improve the safe transportation of acetylene through detection of cylinder deficiencies.

DATES: These amendments are effective on January 15, 1992. However, compliance with the regulations, as amended herein, is authorized immediately.

The incorporation by reference of the publication listed in this amendment is approved by the Director of the Federal Register as of January 15, 1992.

FOR FURTHER INFORMATION CONTACT: Eileen Edmonson, (202) 366–4488, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

On June 14, 1990, the Research and Special Programs Administration (RSPA) published a notice of proposed rulemaking (NPRM) in the **Federal Register** under Docket No. HM–23, Notice No. 90–11 (55 FR 24210), to solicit comments on a proposal to require the periodic inspection and requalification of DOT 8 and 8AL specification cylinders according to procedures contained in 49 CFR 173.34(e) and CGA Pamphlet C–13, entitled "Guidelines for the Periodic Visual Inspection and Requalification of Acetylene Cylinders," 1985 edition. This action was taken in response to a petition submitted by the Compressed Gas Association, Inc. (CGA; P–0981).

RSPA received 30 comments in response to the NPRM from shippers, cylinder manufacturers, consultants, trade associations, and Federal and State agencies. Overall, the commenters supported the proposed rule as an important safety measure; however, several recommended changes to the proposal.

Retesters and Registration

RSPA proposed that persons who perform requalifications of acetylene cylinders must hold a valid retester's identification number in accordance with § 173.34(e) of the HMR. While most commenters were in favor of retesters registering with RSPA, some commenters requested that only retesters working with acetylene or those demonstrating an acceptable knowledge of acetylene be permitted to inspect and requalify DOT 8 and 8AL cylinders. However, no commenter offered any criteria on what should constitute "acceptable knowledge."

Several commenters suggested that RSPA use a different identification numbering system for identifying qualified acetylene cylinder retesters than used for retesters of other cylinder types. Under the current procedures used for registering persons under § 173.34(e), upon written request, RSPA sends to applicants an informational package containing procedures for completing an application, a list of minimum requirements, and a list of approved independent inspection agencies. An applicant arranges to have an independent inspection agency inspect its facility and evaluate the equipment and staff on their ability to properly inspect each type of DOT specification cylinder for which the applicant wants to qualify. Upon completion of a satisfactory evaluation, the applicant submits the necessary information in writing to RSPA. RSPA reviews this information and provides the applicant with a letter of registration bearing a unique retester's identification number if the person meets the required qualifications. The identification number must be displayed at the facility and is valid for 5 years, provided the applicant maintains the equipment and testing capability. Because RSPA's current registration system permits a retester to requalify only those cylinders he has the ability to inspect, RSPA believes establishing a different identification system for registering acetylene cylinder retesters is unnecessary and, therefore, has not adopted these commenters' suggestions.

CGA Pamphlet C–13

As petitioned by CGA, RSPA proposed that CGA Pamphlet C–13 be incorporated by reference for use in the inspection and requalification of acetylene cylinders. The pamphlet contains detailed procedures on inspecting acetylene cylinders and has been used as an industry consensus standard since 1985. Several commenters expressed concerns about the deficiencies of the tools (such as probes, clearance gauges, mirrors and lights) and the procedures used to inspect acetylene cylinders as prescribed in CGA Pamphlet C–13. The National Transportation Safety Board (NTSB) recommended that retesters should use a standard clearance gauge when examining the condition of the cylinder filler material to provide more consistent results. Another commenter suggested that, in addition to using CGA Pamphlet C–13, all trained retesters should be provided with a procedural manual.

RSPA recognizes the merit of these suggestions. Because RSPA believes CGA Pamphlet C–13 is adequate for requalifying cylinders, companies may use CGA Pamphlet C–13 as a minimum inspection standard. Also, though RSPA recognizes that the accuracy of these tests can be improved by using standardized clearance gauges, a single standardized gauge is not sufficient. Gauges are designed differently to accommodate the various cylinder sizes and openings. Therefore, to assist retesters, RSPA strongly encourages manufacturers to develop clearance gauges for each acetylene cylinder design type they manufacture. Manufacturers and retesters are also encouraged to examine their current gauges to determine if they are accurate in measuring the clearance and detecting inconsistencies in the cylinders.

The NTSB asked that the terms and test procedures contained in CGA Pamphlet C–13 be more clearly defined, that any subjectivity in the tests be removed, and that the pamphlet be made more consistent with current regulations before it is incorporated by reference into § 171.7. In particular, the NTSB expressed concern with two sections in CGA Pamphlet C–13: (1) Section 4.7.2, "Filler Inspection," which addresses testing the integrity of the filler through the valve opening with a tool, wire probe, or finger, and (2) Section 4.7.3, "Filler Clearance Measurement," which addresses the

"rattle test" method for checking B and MC cylinders. In additional comments submitted to the docket, CGA contends that the filler inspection test in 4.7.2 is not an acceptance criterion but a performance screening test to reject cylinders with gross defects. CGA also contends that the rattle test in 4.7.3, used to determine if there is excess shrinkage of the porous filler in B and MC cylinders, has proven from years of experience to be a reliable test. Even though RSPA has received no data to suggest that these test procedures may be inadequate, RSPA continues to solicit data from commenters on the sufficiency of these procedures.

Sections 178.59–16(a)(2) and 178.60–20(a)(2) require that the filling material for DOT 8 and 8AL cylinders be uniform in quality and free of voids, except for the well drilled in the filler beneath the valve for the core pack. The NTSB expressed concern with the presence of voids in porous fillers. The NTSB stated that, based on information received from major manufacturers, it is impossible to eliminate all voids and that voids of certain sizes pose no hazard. The NTSB stated that procedures should be developed for identifying and checking unacceptable voids during the manufacturing and requalification processes for acetylene cylinders.

RSPA agrees with the NTSB comment that the manufacturing and requalification procedures need further review, and RSPA plans to address these issues in a separate rulemaking action in the future. Although some of the procedures in CGA Pamphlet C–13 appear subjective, RSPA believes these guidelines will be beneficial in establishing basic procedures for use in the requalification of acetylene cylinders. In addition, a significant segment of the industry to be regulated by this final rule has requested the implementation of these safety initiatives to ensure the safe transportation of acetylene cylinders. Accordingly, RSPA believes sufficient cause does not exist for delaying the incorporation of CGA Pamphlet C–13 into the HMR.

Adjusting the Requalification Schedule

RSPA proposed a time frame for requalifying acetylene cylinders based on a voluntary schedule contained in CGA Pamphlet C–13. According to this schedule for existing cylinders, requalification of the shell must be completed before January 1, 1996, and the porous filler before January 1, 2006. These dates were intended to correspond to 10 and 20 years, respectively, from the 1985 publication date of CGA Pamphlet C–13.

The CGA and several other commenters requested that RSPA revise these inspection dates to correspond to 10 to 20 years from the effective date of the final rule. The commenters stated that many companies have delayed implementing a formal inspection program pending the adoption of inspection requirements under this final rule. RSPA agrees that additional time should be provided and has revised the cylinder requalification schedule to require that, for cylinders manufactured before January 1, 1991, requalification of the shell must be completed before January 1, 2001, and for the porous filler before January 1, 2011. Although these time periods do not correspond with the requested time frames, RSPA believes they are adequate.

The proposal provided that the first inspection of the cylinder filler must be conducted no sooner than 3 years from the date of manufacture. A commenter recommended that the first cylinder filler inspection be conducted no sooner than 2 years from the date of initial cylinder manufacture. The commenter provided no data to support this change. As stated in the NPRM, this 3-year delay period is intended to allow sufficient time for settling of the porous filler inside the cylinder before the inspection is performed. Therefore, the commenter's recommendation has not been adopted.

Tare Weight and Cylinder Valve Replacement

The tare weight includes the weight of the cylinder shell, porous filling, valve, safety relief devices and solvent, but without removable cap. Proposed § 173.34(e)(17)(iii) would have required that the tare weight of an acetylene cylinder be checked when a cylinder valve is replaced and, if there is a change in weight, the new tare weight must be marked on the cylinder. Several commenters, including the CGA, objected to the proposal on the basis that this procedure would increase the chance of incorrectly determining the new tare weight. The commenters suggested that when a valve is replaced, a valve of the same weight should be used, or the tare weight of the cylinder should be adjusted to compensate for the weight differential between the old valve and the new valve. RSPA agrees with the commenters and has revised § 173.34(e)(17)(iii) accordingly.

Effective Date

The notice provided retesters a 6-month transition period from the effective date of the final rule to begin the requalification of acetylene cylinders in accordance with CGA Pamphlet C–13 and § 173.34(e). Several commenters stated that they needed more time to establish a system for retesting acetylene cylinders and requested a 12-month transition period as a more reasonable length of time. RSPA agrees with the commenters and has revised § 173.34(e)(17)(ii) to provide for a transition period of 12 months after the effective date of this final rule.

Prefill Requirements

In § 173.303(e), acetylene cylinders must be visually inspected before each filling in accordance with CGA Pamphlet C–13. A commenter requested that RSPA not adopt this requirement because this prefill inspection requirement was intended only as a guide for acetylene filling plants. Another commenter, expressing an opposite viewpoint, stated that the prefill inspection, along with the periodic requalification, is an appropriate measure for ensuring the removal of unserviceable cylinders and, thereby, reducing the overall costs from accidents or litigation. RSPA agrees with the latter commenter and believes the prefill inspection requirement is vital to ensure increased safety because more acetylene cylinder deficiencies will be detected, allowing these cylinders to be removed from service. Therefore, RSPA has adopted the requirement for a prefill inspection in the final rule.

II. Section by Section Review

Section 171.7

Several commenters requested that CGA Pamphlet C–13 not be identified by a specific edition number or date. Commenters stated the absence of dated material would allow persons to use the most current edition of incorporated standards without delay and would eliminate the need for RSPA to publish periodic updates of incorporated matter in the **Federal Register**. RSPA disagrees because open-ended incorporations by reference are inconsistent with the Administrative Procedure Act and regulations implementing that Act. The Director, Office of the Federal Register (OFR) is responsible for approving materials incorporated by reference. The OFR regulations require an agency that seeks approval for a change to a publication that is incorporated by reference to publish notice of the proposed change in the **Federal Register**. The language incorporating a publication by reference must state the title, date, edition, author, publisher, and identification number of the publication.

(See approval procedures for incorporation by reference in 1 CFR part 51.) Accordingly, RSPA incorporates by reference into § 171.7(d)(3) the 1985 edition of CGA Pamphlet C–13. The changes contained in this section are aligned with the changes adopted under a final rule published in the **Federal Register** (55 FR 52402) under Docket No. HM–181, December 21, 1990.

Section 173.34

In the table in paragraph (e), the line entry for "DOT 8, 8AL" is amended by removing the notation "No retest required" and adding the reference "10 or 20, see § 173.34(e)(17)." Paragraph (e)(17) is revised to require that acetylene cylinders be requalified in accordance with CGA Pamphlet C–13. After a cylinder has been successfully requalified, it must be marked with the cylinder retester's identification number in accordance with § 173.34(e)(6) and, in addition, be marked with the letter "S" for shell requalification, or the letter "F" for a porous filler requalification, as prescribed in CGA Pamphlet C–13. Provisions also are included in paragraph (e)(17) to recognize cylinders that have been voluntarily requalified in accordance with CGA Pamphlet C–13 before the compliance date. In addition, paragraph (e)(17) is revised to require that when a valve on an acetylene cylinder is removed, it must be replaced with a cylinder valve of the same weight, or the tare weight of the cylinder must be adjusted to compensate for the difference in weight between the old and the new valve. Paragraph (f)(2), pertaining to DOT–8 series cylinders subject to the action of fire, is revised to require these cylinders to be requalified in accordance with CGA Pamphlet C–13.

Section 173.303

A new paragraph (e) is added to require that acetylene cylinders be visually inspected for defects and leakage at the time of each filling in accordance with CGA Pamphlet C–13.

III. Administrative Notices

A. Executive Order 12291

RSPA has determined that this final rule (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT Regulatory Policies and Procedures (44 FR 11034); (3) will not affect not-for-profit enterprises or small governmental jurisdictions; and (4) does not require an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). A regulatory evaluation is available for review in the Docket.

B. Executive Order 12612

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. A determination has been made that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

C. Regulatory Flexibility Act

The provisions of this final rule impact owners, users and retesters of acetylene cylinders, some of whom may be small entities. Information available to RSPA is insufficient to determine the numbers of entities affected. As addressed in the regulatory evaluation, which is available for review in the Docket, minor costs would be incurred by owners and users of acetylene cylinders with respect to the requalification requirements. The requalification requirements are the cost of performing a visual inspection of the cylinder shell 10 years from the date of manufacture of the cylinder or 10 years from the effective date of this final rule, the cost of a one-time filler inspection no sooner than 3 years and no later than 20 years from the date of manufacture of the cylinder or the effective date of this final rule, and a one-time cost to retesters for the purchase of a stamp. An extended transition period has been provided to minimize cost impacts. Based on the foregoing, I certify this regulation will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

Information collection requirements contained in current § 173.34(e)(1) have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Public Law 96–511) under OMB Control Number 2137–0022.

E. Regulatory Information Number (RIN)

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

In consideration of the foregoing, 49 CFR parts 171 and 173 are amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 continues to read as follows:

Authority: 49 App. U.S.C. 1802, 1803, 1804, 1805, 1808, 1818; 49 CFR Part 1.

2. In § 171.7, the table in paragraph (a)(3) is amended by adding, in sequence, the following entry:

§ 171.7 Reference material.

(a) * * *

(3) * * *

Source and name of material	49 CFR reference
* * * * *	
CGA Pamphlet C–13, Guidelines for Periodic Visual Inspection and Requalification of Acetylene Cylinders, 1985.	173.34, 173.303
* * * * *	

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

3. The authority citation for part 173 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806, 1807, 1808, 1817; 49 CFR Part 1, unless otherwise noted.

4. In § 173.34, the entry beginning "8, 8AL" in the table in paragraph (e) introductory text and paragraph (f)(2) are revised, and new paragraph (e)(17) is added to read as follows:

§ 173.34 Qualification maintenance, and use of cylinders

* * * * *

(e) * * *

Specification under which cylinder was made	Minimum retest pressure (p.s.i.)	Retest period (years)
* * * * *		
8, 8AL		10 or 20 (See § 173.34(e)(17)).
* * * * *		

* * * * *

(17) *DOT 8 and 8AL cylinders.* (i) Each owner of a DOT 8 or 8AL cylinder used to transport acetylene, flammable gas, must have the cylinder shell and the porous filler requalified in accordance with CGA Pamphlet C–13. The requalifications must be performed in accordance with the following schedule:

Date of cylinder manufacture	Shell (visual inspection) requalification		Porous filler requalification	
	Initial	Subsequent	Initial	Subsequent
Before January 1, 1991	Before January 1, 2001	10 yrs	Before January 1, 2011	Not required.
On or after January 1, 1991	10 yrs [1]	10 yrs	3 to 20 yrs [2]	Not required.

[1] Years from date of cylinder manufacture.
[2] For cylinders manufactured on or after January 1, 1991, requalification of the porous filler must be performed no sooner than 3 years, and no later than 20 years, from the date of manufacture.

(ii) Except for cylinders requalified and marked in accordance with CGA Pamphlet C–13 before January 15, 1993 an acetylene cylinder must be requalified by a person who holds a valid retester's identification number in conformance with paragraph (e)(1) of this section. Each cylinder successfully passing a shell or filler requalification must be marked with the retester's identification number in accordance with paragraph (e)(6) of this section. In addition, the cylinder must be appropriately marked to identify the type of requalification performed in accordance with paragraph 4.8 of CGA Pamphlet C–13. For example, the letter "S" shall be used for a shell requalification and the letter "F" for a porous filler requalification.

(iii) If a cylinder valve is replaced, a cylinder valve of the same weight must be used, or the tare weight of the cylinder adjusted to compensate for valve weight differential.

(f) * * *

(2) DOT 8 and 8AL cylinders made entirely of carbon steel with 0.25 percent or less carbon and with 0.90 percent or less manganese, must be reinspected to determine the condition of the cylinder and the porous filler, as prescribed in CGA Pamphlet C–13. If the cylinder has been damaged, the porous filler must be removed and the cylinder must be heat treated and retested. The porous filler must be replaced in accordance with the specification to which the cylinder was made. A cylinder may be returned to service without reheat treatment or retest if the cylinder has no fire or mechanical damage and the porous filler is unchanged and intact.

* * * * *

5. In § 173.303, a new paragraph (e) is added to read as follows:

§ 173.303 Charging of cylinders with compressed gas in solution (acetylene).

* * * * *

(e) *Prefill requirements.* Before each filling of an acetylene cylinder, the person filling the cylinder must visually inspect the outside of the cylinder in accordance with the prefill requirements contained in CGA Pamphlet C–13, Section 3.

Issued in Washington, DC on October 30, 1991 under authority delegated in 49 CFR part 1.

Travis P. Dungan,

Administrator, Research and Special Programs Administration.

[FR Doc. 91–26730 Filed 11–8–91; 8:45 am]

BILLING CODE 4910–60–M

federal register

Tuesday
November 12, 1991

Part III

Department of Health and Human Services

Centers for Disease Control

Vessel Sanitation Inspections, Cruise Ships; Fee Schedule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Revision of Fees for Sanitation Inspections of Cruise Ships

AGENCY: Centers for Disease Control (CDC), Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This notice announces revised fees for vessel sanitation inspections effective January 1, 1992.

EFFECTIVE DATE: January 1, 1992.

FOR FURTHER INFORMATION CONTACT: Linda Anderson, Chief, Special Programs Group, National Center for Environmental Health and Injury Control (F29), CDC, Atlanta, Georgia, 30333. Telephone: FTS: 236–4595, Commercial: (404) 488–4595.

SUPPLEMENTARY INFORMATION:

Purpose and Background

Collection of fees for sanitation inspections of passenger cruise ships currently inspected under the Vessel Sanitation Program (VSP), CDC, began on March 1, 1988; the fee schedule was first published in the **Federal Register** on November 24, 1987 (52 FR 45019).

The formula used to determine the fees is as follows:

$$\text{Average cost per inspection} = \frac{\text{Total cost of VSP}}{\text{Weighted No. of Annual Inspections}}$$

The average cost per inspection is multiplied by a size/cost factor to determine the fee for vessels in each size category. The size/cost factor was established in the fee schedule published in the **Federal Register** on July 17, 1987 (52 FR 27060) and revised in a schedule published in the **Federal Register** on November 28, 1989 (54 FR 48942). The revised size/cost factor is presented below in appendix A.

Fees

The fee schedule is presented in appendix A and will be effective January 1, 1992, through December 31, 1992.

Applicability

The fees will be applicable to all passenger cruise vessels for which sanitation inspections are conducted as part of the Vessel Sanitation Program, CDC.

Dated: November 4, 1991.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

BILLING CODE 4160-18-M

Appendix A

SIZE/COST FACTOR

Vessel Size	GRT[1]	Average Cost X
Extra Small	(<3,001)	0.25
Small	(3,001-15,000)	0.5
Medium	(15,001-30,000)	1.0
Large	(30,001-60,000)	1.5
Extra Large	(>60,000)	2.0

FEE SCHEDULE JANUARY 1, 1992 - DECEMBER 31, 1992

Vessel Size	GRT[1]	Fee
Extra Small	(<3,001)	$ 750
Small	(3,001-15,000)	$ 1,500
Medium	(15,001-30,000)	$ 3,000
Large	(30,001-60,000)	$ 4,500
Extra Large	(>60,000)	$ 6,000

Inspections and reinspections involve the same procedure, require the same amount of time and will therefore be charged at the same rate.

[1]GRT-Gross Register Tonnage in cubic feet, as shown in Lloyd's Register of Shipping.

[FR Doc. 91-27067 Filed 11-8-91; 8:45 am]
BILLING CODE 4160-18-C

federal register

Tuesday
November 12, 1991

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 43

U.S./Canada Bilateral Airworthiness Agreement; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 43

[Docket No. 25920; Amdt. No. 43-33]

RIN 2120-AB89

U.S./Canada Bilateral Airworthiness Agreement

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment provides for the acceptance by the FAA of maintenance, preventive maintenance, and alterations accomplished on U.S. civil aeronautical products and components in Canada. The amendment implements the airworthiness maintenance provisions contained in the U.S./Canada Bilateral Airworthiness Agreement (U.S./CBAA) and the Schedule of Implementation Procedures between the United States and Canada. The amendment provides for acceptance by the FAA of maintenance, preventive maintenance, and alterations performed on aircraft engines, propellers, appliances, materials, parts, and other components which are transported from the United States to Canada and which are for installation on U.S.-registered aircraft.

DATES: Effective date February 10, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Henry, Repair Station Branch (AFS-320), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-3804.

SUPPLEMENTARY INFORMATION:

Background

Section 43.17 of the Federal Aviation Regulations (FAR) (14 CFR 43.17) currently defines the scope of mechanical work authorized to be performed by Canadian persons on U.S.-registered aircraft. Generally, an appropriately rated Canadian aircraft maintenance engineer or authorized employee of an approved Canadian maintenance company, with respect to U.S.-registered aircraft located in Canada, may: (1) Perform maintenance and alteration if the work is performed and recorded in accordance with the requirements of part 43 of the FAR; (2) perform inspections (other than annual inspections) if the inspection is performed and recorded in accordance with the requirements of part 43 of the FAR; and (3) approve the work accomplished in order to return the aircraft to service (except that only a Canadian airworthiness inspector or an approved inspector may approve a major repair or major alteration). As presently delineated in § 43.17(c), Canadian persons are allowed to perform mechanical work with respect to a U.S.-registered aircraft only when the aircraft is located in Canada.

The need to maintain products used in U.S. and Canadian aircraft operations created a necessity for the United States and Canada to restructure their bilateral airworthiness agreement. In addition to including the present provisions of § 43.17 to maintain and alter U.S.-registered aircraft in Canada, this agreement provides for the maintenance, preventive maintenance, and alterations of aeronautical products shipped between the United States and Canada.

The United States and Canada signed the Agreement Concerning the Airworthiness and Environmental Certification, Approval, or Acceptance of Imported Civil Aeronautical Products (the U.S./CBAA), which became effective on September 7, 1984. This agreement terminated and replaced the Arrangement of July 28, 1938 (as amended by the Exchange of Notes at Ottawa, August 12, 1970, and February 18, 1971), which provided for the reciprocal acceptance of certificates of airworthiness for export of aeronautical products between the United States and Canada. The purpose of the maintenance provisions of the U.S./CBAA is to provide for the reciprocal acceptance of the performance in one contracting state of maintenance on and alteration of civil aeronautical products certified, approved, or accepted in the other contracting state. (The U.S./CBAA defines "maintenance" as including the types of functions performed as "preventive maintenance" and defines "modification" as synonymous with "alteration").

Canada has entered into similar airworthiness agreements with several countries. The provisions of the agreements between Canada and other countries are not included as part of the U.S./CBAA. For this reason products for use on U.S.-registered aircraft cannot be maintained or altered under any bilateral agreement made between Canada and any other country.

The United States and Canada signed the Schedule of Implementation Procedures for the U.S./Canada Bilateral Airworthiness Agreement, which became effective on January 31, 1985. The purpose of the Schedule is to carry out the objectives of the U.S./CBAA. The Schedule includes the objective of ensuring that "The procedures for the performance of maintenance and alteration or modification by authorized persons in one State on aircraft which are under airworthiness regulation by the civil airworthiness authority (CAA) of the other State, including aeronautical products to be installed on such aircraft, establish that the work is performed and the aircraft returned to service in accordance with the laws, regulations, standards, and requirements of the state regulating the airworthiness of the affected aircraft." Concurrent with this objective is the necessity to provide for the development of reciprocity procedures and cooperation toward sustaining the environmental and equivalent safety objectives of the U.S./CBAA.

For clarification, a new paragraph, § 43.17(b) Applicability, has been added to § 43.17. Consequently, the other paragraphs in this section are rearranged.

On June 6, 1989, Notice of Proposed Rulemaking No. 89-16, U.S./Canada Bilateral Airworthiness Agreement, was published in the **Federal Register** (54 FR 24304). Interested persons were given an opportunity to participate in the making of this amendment, and due consideration has been given to all comments received.

Discussion of Comments

There were seven comments received on this amendment. All seven commenters agreed with this rule change. However, one commenter expressed concern that the proposal did not mention anything about equivalent/reciprocating Canadian regulations and suggested that the FAA issue an advisory circular coinciding with the part 43 change detailing the Canadian regulations and explaining the responsibilities therein.

The FAA concurs with the commenter's concern regarding equivalent/reciprocating Canadian regulations, although the NPRM, on page 24305, did address Canadian reciprocal regulations. The NPRM, however, did not go into detail regarding the Canadian regulations.

Additionally, the FAA concurs with the commenter's suggestion relating to the FAA issuing an advisory circular (AC) detailing the Canadian regulations and explaining the maintenance responsibilities. The FAA is currently working with the Canadian authorities to develop simultaneous AC's explaining the responsibilities of both Canadian citizens and U.S. citizens.

Paperwork Reduction Act

Information collection requirements set forth in part 43 have previously been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2120–0020.

Regulatory Evaluation

The FAA has conducted a final regulatory evaluation of the amendments to § 43.17, which reflects the provisions of the restructured September 7, 1981, bilateral airworthiness agreement (U.S./CBAA).

Executive Order 12291 dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if the potential benefits to society from the regulatory change outweigh the potential costs it would impose on society. The order also requires the preparation of a regulatory impact analysis of all "major" proposals except those responding to emergency situations or other narrowly defined exigencies. A "major" proposal is one that is likely to result in an annual effect on the economy of $100 million or more, a major increase in consumer costs, or a significant adverse effect on competition.

The FAA has determined that this regulatory action is not a "major" action as defined in the executive order, so a full regulatory impact analysis identifying and evaluating alternative proposals has not been prepared. A more concise final regulatory evaluation has been prepared, however, which includes consideration of the economic consequences of this regulation. This regulatory evaluation is included in the docket.

Costs and Benefits

The amended regulations will impose no incremental costs on society. The only costs related to this matter are those of negotiating the bilateral agreement, which have already been incurred.

The amended regulations will benefit carriers operating U.S.-registered aircraft to and from Canada by improving maintenance service and by eliminating delays currently associated with the acceptance of major overhauls, major alterations, or repairs. Some operators of U.S.-registered aircraft in Canada will be relieved of having to ferry an aircraft to an FAA-certificated domestic repair station in the United States or of suffering delays from having an FAA-approved inspector travel to Canada to inspect and approve any repairs made to their U.S.-registered aircraft. The amended regulations will also benefit the FAA by eliminating the costs associated with some of the FAA's certification and surveillance of Canadian aircraft repair stations.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress in order to ensure, among other things, that small entities are not disproportionately affected by Government regulations. The RFA requires a regulatory flexibility analysis if a rule has "a significant economic impact on a substantial number of small entities." Order 2100.14A, adopted September 16, 1986, defines operators who are considered to be small entities as those owning but not necessarily operating nine or fewer aircraft.

The amended regulations are not expected to affect a substantial number of small entities, because most entities involved in trans-border operations are considered large and the instances where a small entity would be involved in trans-border operations in which its aircraft would require repair in Canada are expected to be few. The FAA, therefore, finds that a regulatory flexibility analysis is not required by the Regulatory Flexibility Act.

International Trade Impact Analysis

The amended regulations will improve international trade for U.S. firms doing business in Canada by expediting the airworthiness inspections process for their products and services. The airworthiness standards that currently must be met by both U.S.- and Canadian-manufactured aeronautical products will not change. Thus, the proposal will have a beneficial impact on international trade, but this impact is not expected to be significant.

Federalism Implications

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Thus, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

Since the amendments contained in this document do not require the FAA's certification and surveillance of Canadian-approved maintenance organizations and may lessen costs and improve service to the operator of U.S.-registered aircraft, the estimated benefits exceed the estimated costs of implementing this regulation. For the reasons discussed above, the FAA certifies that, under the criteria of the Regulatory Flexibility Act, this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities, and a regulatory flexibility analysis is not required. This regulation is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). In addition, for the same reasons, the regulation does not involve a major rule under Executive Order 12291.

List of Subjects in 14 CFR Part 43

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The Rule

In consideration of the foregoing, the FAA amends part 43 of the FAR (14 CFR part 43) as follows:

PART 43—MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATION

1. The authority citation for part 43 is revised to read as follows:

Authority: 49 U.S.C. App. 1354, 1421 through 1430; 49 U.S.C. 106(g).

2. Section 43.17 is revised to read as follows:

§ 43.17 Maintenance, preventive maintenance, and alterations performed on U.S. aeronautical products by certain Canadian persons.

(a) *Definitions.* For purposes of this section:

Aeronautical product means any civil aircraft or airframe, aircraft engine, propeller, appliance, component, or part to be installed thereon.

Canadian aeronautical product means any civil aircraft or airframe, aircraft engine, propeller, or appliance under airworthiness regulation by the Canadian Department of Transport, or component or part to be installed thereon.

U.S. aeronautical product means any civil aircraft or airframe, aircraft engine, propeller, or appliance under airworthiness regulation by the FAA, or component or part to be installed thereon.

(b) *Applicability.* This section does not apply to any U.S. aeronautical products maintained or altered under any bilateral agreement made between Canada and any country other than the United States.

(c) *Authorized persons.* (1) A person holding a valid Canadian Department of Transport license (Aircraft Maintenance Engineer) and appropriate ratings may, with respect to a U.S.-registered aircraft located in Canada, perform maintenance, preventive maintenance, and alterations in accordance with the requirements of paragraph (d) of this section and approve the affected aircraft for return to service in accordance with the requirements of paragraph (e) of this section.

(2) A company (Approved Maintenance Organization) (AMO) whose system of quality control for the maintenance, alteration, and inspection of aeronautical products has been approved by the Canadian Department of Transport, or a person who is an authorized employee performing work for such a company may, with respect to a U.S.-registered aircraft located in Canada or other U.S. aeronautical products transported to Canada from the United States, perform maintenance, preventive maintenance, and alterations in accordance with the requirements of paragraph (d) of this section and approve the affected products for return to service in accordance with the requirements of paragraph (e) of this section.

(d) *Performance requirements.* A person authorized in paragraph (c) of this section may perform maintenance (including any inspection required by § 91.409 of this chapter, except an annual inspection), preventive maintenance, and alterations, provided:

(1) The person performing the work is authorized by the Canadian Department of Transport to perform the same type of work with respect to Canadian aeronautical products;

(2) The work is performed in accordance with §§ 43.13, 43.15, and 43.16 of this chapter, as applicable;

(3) The work is performed such that the affected product complies with the applicable requirements of part 36 of this chapter; and

(4) The work is recorded in accordance with §§ 43.2(a), 43.9, and 43.11 of this chapter, as applicable.

(e) *Approval requirements.* (1) To return an affected product to service, a person authorized in paragraph (c) of this section must approve (certify) maintenance, preventive maintenance, and alterations performed under this section, except that an Aircraft Maintenance Engineer may not approve a major repair or major alteration.

(2) An AMO whose system of quality control for the maintenance, preventive maintenance, alteration, and inspection of aeronautical products has been approved by the Canadian Department of Transport, or an authorized employee performing work for such an AMO, may approve (certify) a major repair or major alteration performed under this section if the work was performed in accordance with technical data approved by the Administrator.

(f) No person may operate in air commerce an aircraft, airframe, aircraft engine, propeller, or appliance on which maintenance, preventive maintenance, or alteration has been performed under this section unless it has been approved for return to service by a person authorized in this section.

Issued in Washington, DC, on November 5, 1991.

James B. Busey,

Administrator.

[FR Doc. 91-27081 Filed 11-8-91; 8:45 am]

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S. 1823/Pub. L. 102-151

To amend the Veterans' Benefit and Services Act of 1988 to authorize the Department of Veterans Affairs to use for the operation and maintenance of the National Memorial Cemetery of Arizona funds appropriated during fiscal year 1992 for the National Cemetery System. (Nov. 5, 1991; 105 Stat. 983; 2 pages) Price: $1.00

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1990. The CFR volume issued January 1, 1987, should be retained.

[5] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1991. The CFR volume issued April 1, 1990, should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1989 to June 30, 1991. The CFR volume issued July 1, 1989, should be retained.

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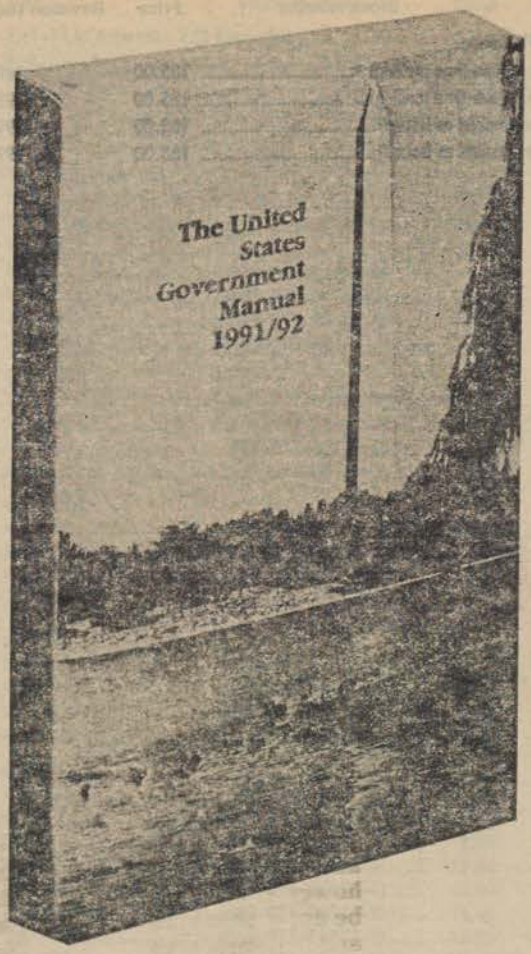
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Particularly helpful for those interested in where to go and who to see about a subject of particular concern is each agency's "Sources of Information" section, which provides addresses and telephone numbers for use in obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest. The *Manual* also includes comprehensive name and agency/subject indexes.

Of significant historical interest is Appendix C, which lists the agencies and functions of the Federal Government abolished, transferred, or changed in name subsequent to March 4, 1933.

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